

From: Douglas Ross <douglas.ross@advocates.org.uk>
Sent: 23 February 2021 20:42
To: [REDACTED]@gov.scot>
Subject: RE: [REDACTED] [UNSCANNED]

[REDACTED]

Thanks for this and your earlier e-mail. I much appreciate the good wishes from, and understanding shown by, you and Mr Hamilton.

I do hope to be able to turn my attention get back to this matter before the end of the week and will keep you posted of anticipated timescales.

Regards

Douglas
Douglas Ross QC Ampersand Advocates

phone: [REDACTED]
web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)
Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



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From: [REDACTED]@gov.scot>
Sent: 23 February 2021 15:33
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED] [UNSCANNED]

Hi Douglas,

I've spoken to Mr Hamilton, who [REDACTED]
[REDACTED] He completely understands that you have other demands on your time at the moment and that this will affect the timescales this week.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 23 February 2021 10:57
To: 'Douglas Ross' <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED] [UNSCANNED]

Hi Douglas,

Thanks for letting me know, I've sent this on to Mr Hamilton.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Best wishes,

[REDACTED]

From: Douglas Ross <douglas.ross@advocates.org.uk>
Sent: 22 February 2021 21:33
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: RE: [REDACTED] [UNSCANNED]

Dear [REDACTED]

Thanks for this. I look forward to receiving the [REDACTED] in due course, but please don't rush to get it to me first thing tomorrow. I am fighting on a number of fronts at the moment. The Ministerial Referral is, unfortunately, not the only matter in which I am involved in which there have been unanticipated developments! I am dealing with urgent issues in a couple of cases in which I have been instructed for a long time and hence cannot avoid. [REDACTED]

[REDACTED] I will, of course, turn my attention back to the Ministerial Referral just as soon as I possibly can. However, as matters stand, that looks like being Wednesday at the earliest, and possibly – depending on these other issues - Thursday or even Friday.

My apologies for any inconvenience that may cause, but it's better that I give you and Mr Hamilton a realistic estimate so that you can plan accordingly.

Happy to discuss any matters arising.

Regards

Douglas
Douglas Ross QC Ampersand Advocates

phone: [REDACTED]
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Clerk: [Alan Moffat](#)
Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



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From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Sent: 22 February 2021 16:07
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED] [UNSCANNED]

Dear Douglas,

As discussed, [REDACTED]

[REDACTED] Two of these are password protected with the usual password.

I will put together the [REDACTED] and send it over, hopefully first thing tomorrow.

Best wishes,

[REDACTED]

From: Douglas Ross <douglas.ross@advocates.org.uk>

Sent: 22 February 2021 14:10

To: [REDACTED]

Dear [REDACTED]

Thanks for this.

[REDACTED]

Regards

Douglas

From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>

Sent: 22 February 2021 13:09

To: Douglas Ross <douglas.ross@advocates.org.uk>

Subject: RE: [REDACTED]

Dear Douglas,

Further to my email last week, please see response to your questions.

[REDACTED]

Happy to discuss.

Best wishes,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 19 February 2021 10:08
To: 'Douglas Ross' <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED]

Dear Douglas,

Many thanks for this advice, I have forwarded your email to Mr Hamilton.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Best wishes,

[REDACTED]

From: Douglas Ross <douglas.ross@advocates.org.uk>

Sent: 18 February 2021 21:27

To: [REDACTED]

Subject: RE: [REDACTED]

Dear [REDACTED]

I was on the point of sending you a lengthy e-mail when your e-mail below came in. The information contained in the attachment plainly has potentially very significant implications to which I will have to give careful consideration. I had, naturally, not anticipated this development and am committed to spending most of tomorrow (and probably a good deal of the weekend) on two other matters with urgent deadlines. While I will return to working on the Ministerial Referral ASAP, I'm afraid that it is likely to be next week before I am able to spend much time on it. In the meantime, I set out below a shorter version of the e-mail I had been about to send with preliminary observations and queries in relation to the matters on which you have sought my advice.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Happy to discuss any matters arising.

Regards

Douglas

Douglas Ross QC Ampersand Advocates

phone: [REDACTED]

web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)

Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



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From: [REDACTED]@gov.scot>
Sent: 18 February 2021 18:35
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: [REDACTED]

Hi Douglas,

Hope you are well.

I know you're looking at some of these issues at the moment and will have much more detail on this, but wanted to bring you up to speed on something we have received today. I've deliberately avoided detail of names etc. in case this causes any issues, but would be happy to discuss over the phone if that would be helpful.

[REDACTED]

Happy to discuss.

Best wishes,

[REDACTED]

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From: [REDACTED]
Sent: 23 February 2021 15:45
To: James Hamilton [REDACTED]
Subject: RE: Letter for James Hamilton

Hi James,

Please see attached Annex B from Mr Salmond's Friday email. After various ways of trying to copy this, I screencapped this as a series of images, but the image in Mr Salmond's email was basically the opening pages of the JR petitions and answers, and the section of the document that states when the FM found out about the allegations against Mr Salmond.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 22 February 2021 11:55
To: 'James Hamilton' [REDACTED]
Subject: RE: Letter for James Hamilton

Hi James,

I had a go at sorting the images from Mr Salmond's email myself- please see attached which includes Annex A.

Annex B is being very odd but I will get back to you with it shortly I hope!

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 19 February 2021 19:28
To: 'James Hamilton' [REDACTED]
Subject: FW: Letter for James Hamilton

Hi James,

Please see attached response from Mr Salmond. This crossed with your letter which I issued earlier- but probably a good thing it did as it turned out this email was languishing in my junk folder!

Best wishes,

[REDACTED]

From: Alex Salmond <alex@alexsalmond.scot>

Sent: 19 February 2021 07:42

To: [REDACTED]

Subject: Letter for James Hamilton

Dear [REDACTED]

Could you please pass this correspondence to Mr James Hamilton in answer to his recent letter and questions of 9th February?

Best Wishes

Alex Salmond

Mr James Hamilton
Independent Adviser on the Ministerial Code
19 February 2021

Dear Mr Hamilton

Further to your letter of 9th February and my reply of the 11th, I have had the opportunity to consult my records and am now in a position to answer your follow up questions.

Mr Aberdeen did phone me on the 9th of March 2018 and gave me an outline of information he had been given [REDACTED]. It was very much a brief and one way conversation as I was travelling in a car with other people.

We arranged to speak again a few days later (I believe the 14th of March) with further information when we were able to discuss in private what he had been told and discuss what was to be done. I have no doubt that Mr Aberdeen told me that the information he had been given [REDACTED] was that there were two complaints being investigated, that one was regarded as a significant complaint and one not, and that he named one of the complainants. He said [REDACTED]

[REDACTED] I cannot be absolutely certain that Mr Aberdeen imparted the specific information on the name of one of the complainants in our first or second conversations but I am 100 per cent certain that he did so in one of these two conversations and that this was the first time that anyone had done so.

At that time I had received a letter from Ms Evans on the 7th March 2018. This outlined purported incidents but not the names of the complainants. Identifying these was difficult because as it transpired every single date or location (where one was given) turned out to be incorrect. I enclose as Appendix A, a passage from one of my solicitors' letters to Ms Evans of 20th July 2018. This specifies the difficulties which

were placed in our way in knowing of what I was being accused and by whom. The full letter is published on the SGHHC website. I recognised the name given to me by Mr Aberdein but was not able to identify the name of the second complainant until some weeks after these conversations when I obtained a photographic record of a public event in question.

I have already given you permission to speak to my legal representatives to corroborate my account of the First Minister's later conversation with me in July 2018. This also applies to the information given to me by Geoff Aberdein in March as I know he had spoken to my advocate Duncan Hamilton at that time. I have, therefore, intimated to Mr Hamilton that in order to confirm factual events and recollections relevant to your investigations I am content that he provide answers to any questions you may have.

In my letter I mentioned to you that I had come across further information when preparing to give evidence to the parliamentary Committee. This concerns the pleadings made by Government in the Open Record of the Judicial Review in December 2018 (which said Record has been published on the SGHHC website as part of their Inquiry) which also contains the claim subsequently made to parliament that the first knowledge the First Minister had of complaints against me was in April 2018. I enclose these at Appendix B. As you will see the terms of this are quite specific and the First Minister was the "interested party" in the case and responsible for these pleadings to court. It says "she first became aware of the existence of an investigation into the petitioner's conduct in April 2018 when the petitioner made her so aware"

I know this not to be true and would further add that if indeed the First Minister had "forgotten" about the meeting in her office on March 29th 2018 only to be reminded of it shortly after her parliamentary statement of January 2019 (FM written evidence Parliamentary Inquiry Annex A) then her proper course of action under the Ministerial Code was to correct the parliamentary record at the earliest opportunity, not 18 months later after a report on the 29th March meeting had appeared on Sky Television on Monday 27th July 2020. Instead over that period it was officially and publicly denied that there had been any such meeting covering this subject of complaints, including in response to the Sky report itself;

A Scottish government spokesperson told Sky News that Ms Sturgeon does not dispute that the 29 March meeting took place but refutes the suggestion that it involved discussion of the Scottish government's Salmond inquiry.

Sky News asked the Scottish government several questions regarding the meeting on 29 March 2018.

We asked if the Alex Salmond investigation was indeed discussed. A spokesperson replied: "The first minister stands by her statement to parliament".

The first public acknowledgement was within the terms of reference to this investigation in answer to an arranged parliamentary question on 4th August 2020.

I am at your disposal if you require further questions or to speak directly.

Yours for Scotland

Rt Hon Alex Salmond

APPENDIX A -Extract from letter

APPENDIX B - Open Record

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P850/18

IN THE COURT OF SESSION.

September , 2018.

R E C O R D

(As Adjusted to 4th December 2018)

(As further adjusted to 13 December 2018)

on

PETITION and ANSWERS

ALEX SALMOND

against

LESLIE EVANS and OTHERS

for

Judicial Review.

DAC Beachcroft Scotland LLP,
Solicitors for Petitioner.

Scottish Government Legal
Directorate,
Solicitors for Respondents.

R E C O R D

on

PETITION and ANSWERS

ALEX SALMOND, c/o Levy & McRae, Pacific House, 70 Wellington
Street, Glasgow, G2 6UA, -

PETITIONER:

against

(FIRST) LESLIE EVANS, Permanent Secretary to the Scottish Government,
St. Andrews House, Regent Road, Edinburgh, EH1 3DG; and (SECOND)
THE SCOTTISH MINISTERS, St. Andrews House, Regent Road, Edinburgh,
EH1 3DG, -

RESPONDENTS:

for

for

2 of 120

2

Judicial Review of a purported decision of LESLIE EVANS, Permanent Secretary of the Scottish Government (the first respondent) dated 21st August, 2018 under and in terms of A Procedure For Handling Complaints Involving Current or Former Ministers.

I N D E X

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SP

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communicated to the interested party. She first
became aware of the existence of an investigation
into the petitioner's conduct in April 2018 when the
petitioner made her so aware. The Procedure is one

From: [REDACTED]
Sent: 23 February 2021 11:55
To: James Hamilton [REDACTED]
Subject: Salmond submission- publication

Hi James,

I've copied a link to Mr Salmond's Ministerial Code submission, as published yesterday:

[REDACTED]

And his other submission published yesterday for interest:

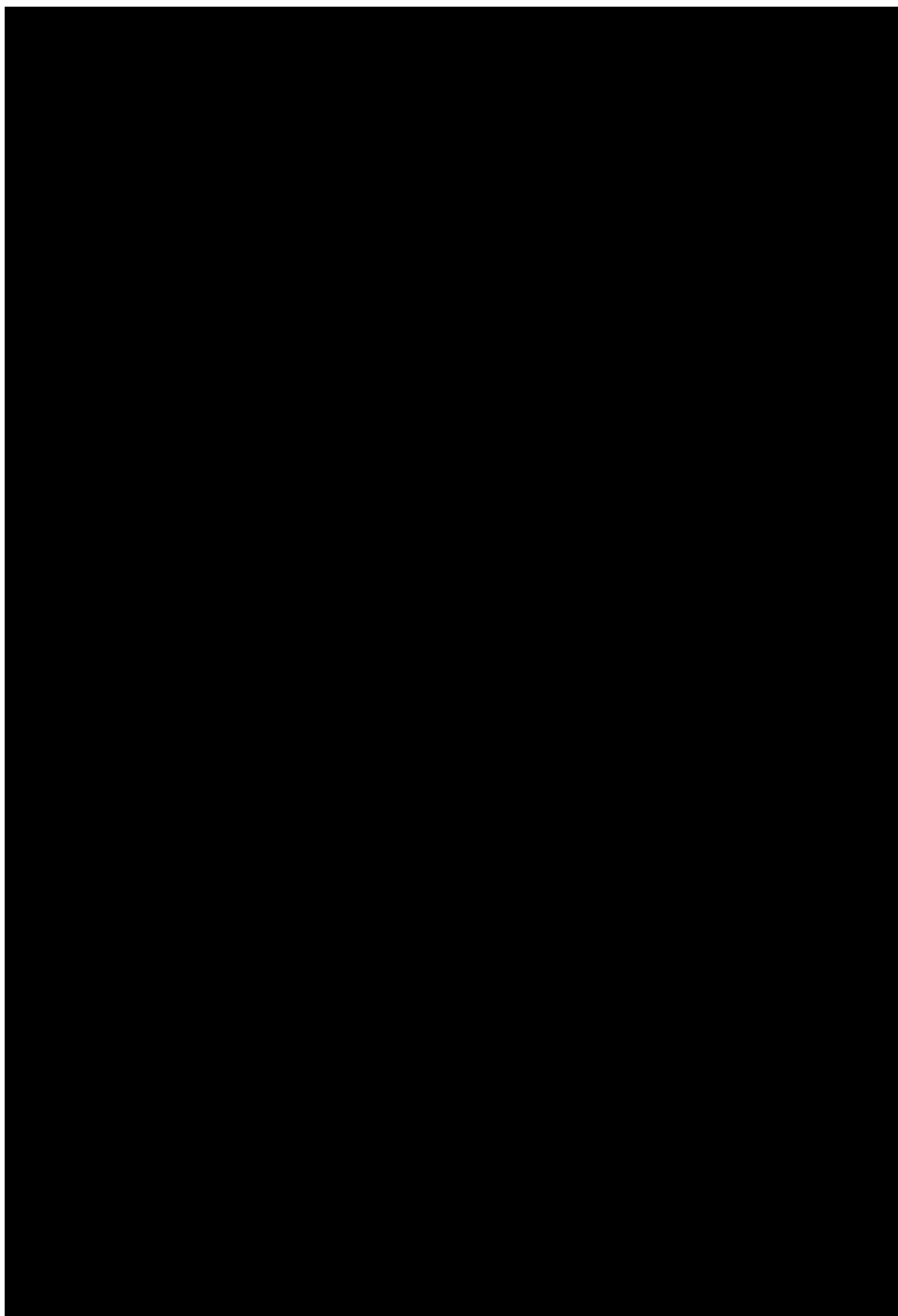
[Alex Salmond Final Submission.pdf \(parliament.scot\)](#)

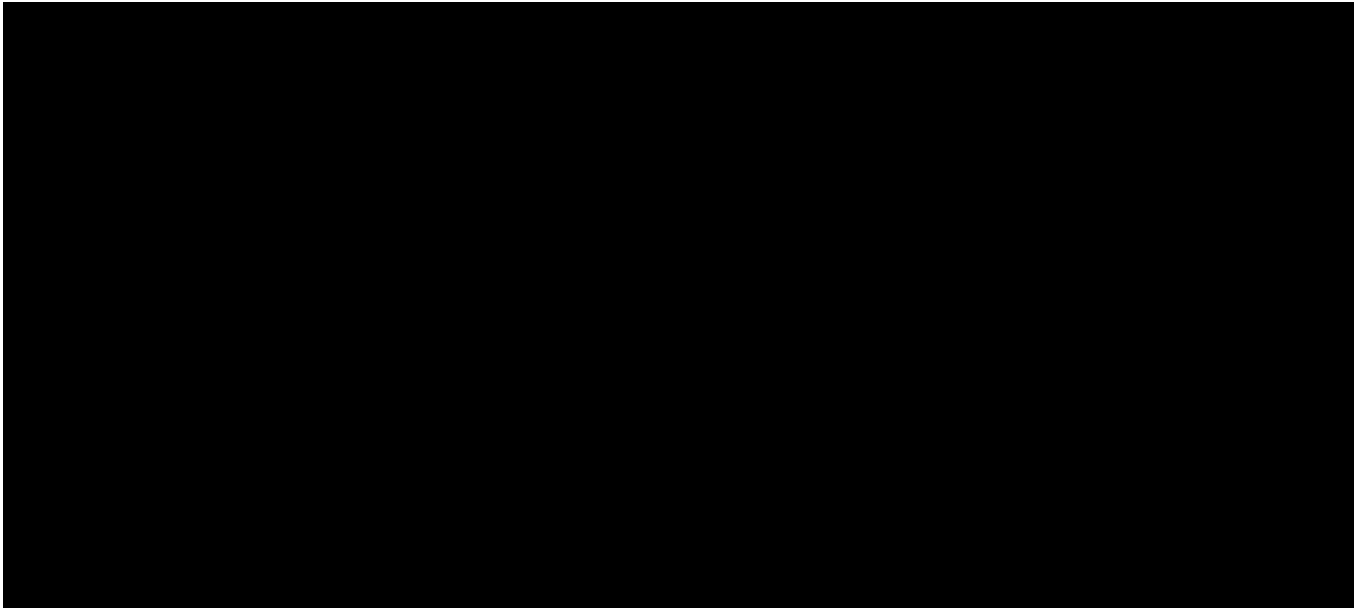
According to Sky News, the Crown Office has asked the SPCB to redact the submission as published. Will keep you posted!

<https://twitter.com/jamesmatthewsky/status/1364145135630622720?s=20>
<https://twitter.com/jamesmatthewsky/status/1364145549600051200?s=20>

Best wishes,

[REDACTED]





From: [REDACTED]
Sent: 23 October 2020 11:01
To: James Hamilton [REDACTED]
Subject: RE: FW: Mr James Hamilton

Sounds great, speak to you then.

From: James Hamilton
Sent: 23 October 2020 10:39
To: [REDACTED]
Subject: Re: FW: Mr James Hamilton

Say 2.00 pm?

On Fri 23 Oct 2020 at 09:31, <[REDACTED]@gov.scot> wrote:
Great, what time would suit you? I'm free all afternoon except 3-4.

From: James Hamilton [REDACTED]
Sent: 22 October 2020 18:30
To: [REDACTED] [REDACTED]@gov.scot>
Subject: Re: FW: Mr James Hamilton

Hi [REDACTED]

Yes to both questions!

James

On Thu 22 Oct 2020 at 16:46, [REDACTED]@gov.scot> wrote:
Hi James,

That's great, just wanted to check I hadn't missed anything. I have added the reference to the committee in the attached draft. Once you are happy with this [REDACTED]
[REDACTED]

Happy to have a catch up- would tomorrow be ok? I have set up a document sharing service which I need to work out exactly how to use but can explain a bit more about, and also have updates to make on the video conferencing paper.

Best wishes,

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 22 October 2020 11:02

To: [REDACTED]
Subject: Re: FW: Mr James Hamilton

Dear [REDACTED]

Yes, the last paragraph is different. I am no longer giving him advice; just telling him what my approach is.

However, I seem to have dropped the reference to material sent to the Scottish parliament which i think you had inserted, and it probably should stay in. It was not included because it was not in my first draft but maybe you could put it back.

Do we need to discuss any of this? I should be at home all morning- I have a Zoom call at 2.00 pm which will probably last about an hour.

Best wishes

James

On Thu, 22 Oct 2020 at 10:06, <[REDACTED]@gov.scot> wrote:
Hi James,

I just wanted to double check if this is what you intended to attach, as it looks like the same text as the first draft but I might be missing something!

Best wishes,

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 20 October 2020 16:11
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Re: FW: Mr James Hamilton

Hi [REDACTED]

Please disregard uncompleted draft just sent to you in error.

I have done a further draft reply- attached.

James

On Tue, 20 Oct 2020 at 14:02, <[REDACTED]@gov.scot> wrote:
Hi James,

I've made some comments on the attached letter- I think that on the first point we can probably use some similar text to that in the first letter re. the legal clearance of the report,

I think the second point is a bit trickier as I don't think we can offer advice on what Mr Salmond may choose to do, only to note what you are intending to do. With that in mind, I've suggested adding a line with your previous committee correspondence, as this makes clear the intended position re. publishing evidence.

If you get a chance, would you be able to look at the suggested response to the committee today, so I can respond by close of play if possible?

Best wishes,

From: James Hamilton
Sent: 19 October 2020 16:29
To: <@gov.scot>
Subject: Re: FW: Mr James Hamilton

Hi

Suggested reply to this further letter. You might let me have any comments

Best wishes

James

On Mon, 19 Oct 2020 at 09:55, James Hamilton < > wrote:
OK

On Sun 18 Oct 2020 at 13:24, <@gov.scot> wrote:
Further correspondence from Mr Salmond with an additional question to consider. If you think it would be appropriate, I will send a short email on Monday confirming you have received the correspondence, are considering the questions posed, and will respond in due course.

From: Alex Salmond < >
Sent: 17 October 2020 12:34
To: <@gov.scot>
Subject: Re: Mr James Hamilton

Mr James Hamilton
Independent Adviser on The Scottish Ministerial Code.

17th October 2020

Dear Mr Hamilton

Further to my letter of 8th October I await an answer to the questions posed or an acknowledgement of the email. Could you ask your staff to provide this?

I am now in receipt of several press queries on whether I have been in communication with you. My practice with the Parliamentary Committee has been to "no comment" but draw attention to the publication of correspondence. However, I doubt that it is your intention to publish correspondence and therefore I would wish your guidance on how to reply to these questions.

On which subject I enclose a letter which my lawyers sent to the Parliamentary Committee on 14th October, which is clearly relevant to your remit, however it be defined.

Yours sincerely

The Rt Hon Alex Salmond

Appendix 1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Sent from my iPad

On 6 Oct 2020, at 22:28, Alex Salmond <[REDACTED]> wrote:

Mr James Hamilton
Independent Adviser on the Scottish Ministerial Code

6th October 2020

Dear Mr Hamilton,

Thank you for your letter of 8th September.

I do indeed have information which will be of assistance to your enquiries and am happy to assist you if I can.

However I would like to accept your offer of clarification on your request and ask first for answers to the following points;

Firstly, I am prepared to represent myself in presenting you with evidence. I am a private individual and simply cannot afford to hire further legal representation as my lawyers are fully occupied dealing with the Scottish Parliamentary Inquiry. Vast sums of public funds have already been expended by Scottish Government officials in legal representation in this process. I am also informed that other witnesses are relying on their political party to finance their legal representation. I will represent myself and am therefore in no position to accept responsibility as to whether my submissions are in line with legal requirements as you suggest in your letter. That will require to be your responsibility and I will be grateful if you could now confirm this.

Secondly, on a related point, the remit drawn by the Deputy First Minister refers to the anonymity orders drawn up by the "court in the criminal proceedings". I would draw your attention to the rather more relevant ruling of Lord Woolman in the civil proceedings of 8th October 2018. This was sought by my counsel and as I recall the Scottish Government were not even represented by counsel at that hearing. Also relevant would be the interlocutor of Lord Pentland of January 8th 2019 after concession of the Judicial Review, where certain Scottish Government documents were reduced by the Court as the product of an unlawful process. For ease of reference I have copied you both of these court interlocutors. Please confirm that you shall not be relying on, or accepting into evidence, said unlawful documents as any part of your enquiries.

You may also be aware that my solicitors have been informed by letter from the Crown Office that if they present or even describe to the Parliamentary Committee information gained in disclosure in the criminal proceedings they will be liable to prosecution. I am happy to provide you with this letter if you wish. Please confirm if this threat applies to your enquiry because there are indeed relevant documents under this restriction. However, given that much of this documentation was obtained by Crown search warrant from the Scottish Government it would be open for the Government to supply you with it. Your difficulty is that you do not know what it is and I am currently debarred from informing you.

Thirdly, I understand from the Parliamentary Committee hearings in answer to a question from Ms Jackie Baillie that the civil servant who has been allocated responsibility for leading support for your enquiry is Mr James Hynd. However Mr Hynd was himself deeply involved in the Scottish Government's unlawful complaints procedure. Indeed he claimed under oath at both the Commission which was required as part of the Judicial Review in December 2018 and in front of the Parliamentary Committee last month to be the original author of the policy. I do not dispute Mr Hynd's personal integrity although I note he was forced to write to the Committee to correct an impression he had unwittingly given about me in his evidence. However, please clarify his status and position in your enquiry given his prior involvement in this matter.

Fourthly, the remit given to your investigation by the Deputy First Minister lays a surprising stress on whether she interfered in the Scottish Government investigation. It might even be suspected that this remit has been set up as a straw man to knock down. There is no general bar on Ministers intervening in a civil service process of which I am aware and indeed there are occasions when Ministers are actually required by the code to intervene to correct civil service behaviour.

What I wish to know is whether matters which, by contrast, are specified in the Ministerial code such as the primary responsibility of not misleading Parliament (contrary to 1.3 (c) of the code), such as the failure to act on legal advice suggesting the Government was at risk of behaving unlawful (contrary to 2.30 of the code), and such as the Ministerial failure to ensure civil servants gave truthful information to parliament (contrary to 1.3 (e) of the code) will have at least equal status in your deliberations or are you confined to the political remit which you have been set? If your enquiry has been confined by Ministers then please tell me if you have the authority to expand that remit unilaterally? If not, will you seek the authority of those in the Scottish Government who set the remit to expand it into these, and other, areas?

Finally since the Parliamentary Committee has demanded full transparency and expressed an interest in your deliberations I have copied them into this email.

As I am answering your enquires personally please direct all future correspondence to me directly at [REDACTED]

Yours faithfully

The Rt Hon Alex Salmond

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From: James Hamilton [REDACTED]
Sent: 23 November 2020 15:22
To: [REDACTED]@gov.scot>
Subject: Re: FW: Correspondence for Mr Hamilton

In about 5 minutes.

On Mon, 23 Nov 2020 at 15:21, [REDACTED] > wrote:
Hi James,

Are you free now?

Best wishes,

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 23 November 2020 15:18
To: [REDACTED]@gov.scot>
Subject: Re: FW: Correspondence for Mr Hamilton

Hi [REDACTED]

Maybe we should discuss on the phone.

James

On Mon, 23 Nov 2020 at 15:11, [REDACTED] > wrote:
Hi James,

Further correspondence from Mr Salmond attached.

Best wishes,

[REDACTED]

From: Alex Salmond [REDACTED]
Sent: 23 November 2020 14:52
To: [REDACTED]@gov.scot
Subject: Correspondence for Mr Hamilton

Dear Mr Hamilton

Thank you for your letter of 29th October. I apologise for the delay in replying, but I had assumed that it had crossed with the exchange in the Scottish Parliament, detailed below, of that same date. To that end, I was awaiting a follow up letter from you, confirming that indeed your remit was not "limited to one aspect of the Ministerial Code";

- **Oliver Mundell (Dumfriesshire) (Con):** Will the First Minister agree to expand the ministerial code investigation to include her statements to Parliament and her actions on the legal advice regarding the judicial review into Alex Salmond's alleged behaviour?
- **The First Minister (Nicola Sturgeon):** My view right now is that James Hamilton, who is the adviser undertaking the investigation into the ministerial code, is not restricted at all in the issues that he can look at. If he thinks that there are any issues that engage the ministerial code or could in any way constitute a breach of the ministerial code, my view is that he is free to look at them. If he considers that that requires any change to his official remit, I am sure that he is perfectly able to say that. However, for the record and to be clear, I do not consider his remit to be limited to just one aspect of the ministerial code.

You will have noted that this parliamentary exchange seems at odds with your letter, which suggests that you are restricted to answering the "questions asked in the referral". You state;

"As you are aware the remit of the referral was set out by the Deputy First Minister in a PQ response to the Scottish Parliament made on 6 August 2020. Considering that the principal matter I am asked to consider concerns an alleged breach of the Ministerial Code in the First Minister's failure to record contacts with you it seems entirely logical to ask the question whether the First Minister was in fact involved in any way in the Scottish Government investigation. In seeking to answer the questions asked in the referral I will of course have to consider any relevant surrounding circumstances."

As detailed in my previous letter, I know of no aspect of the Ministerial Code which prevents a First Minister intervening in a process, not least one which was found by the Court of Session to be "unlawful", and as one consequence of which said process is currently being examined by the SGHHC Committee of the Scottish Parliament.

As I understand it, not intervening to ensure Government is not acting unlawfully when there is a danger that this might be the case, could be considered a breach in terms of the Ministerial Code. Non-intervention in this matter is relevant to the period covering spring and summer of 2018, and in the autumn, this extended to agreeing with or permitting the Permanent Secretary to disregard external legal advice on the Government's prospects of success in the Judicial Review.

This was further compounded by Parliamentary statements on repeated occasions, which have been questioned by MSPs as misleading, most pertinently in relation to the timing of when the First Minister first knew of the investigation and the explanation that the 2nd April meeting was held in the First Minister's private home because she thought it was a matter of party business. There is, of course, the further question of the criminal leak of

protected information to the Daily Record newspaper on 23/24th August 2018 and what, if anything, was the First Minister's state of awareness of the circumstances and the potential involvement of her staff in same.

When I established the independent procedure for referral of purported First Ministerial breaches of the Ministerial Code, it was an innovation and one carried through in good faith. I appointed people of outstanding calibre, such as yourself as independent advisors, so that no-one could suggest that any referrals were being "fixed" either by the civil service or the Government.

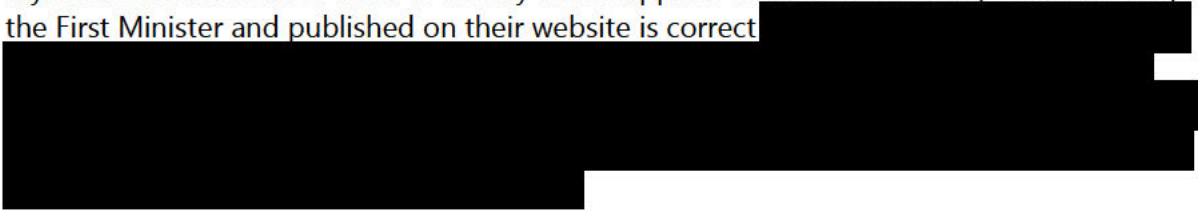
It would be disappointing if this is now being done by the Deputy First Minister, by virtue of confining your terms of referral.

I look forward to your confirmation that your remit is not "limited to just one aspect of the Ministerial code". On that basis I will submit the evidence for which you have asked.

Two final matters.

Firstly, I enclose the letter from the Crown Office which you requested. As you will note, it threatens prosecution if I were to reveal to the Parliamentary Committee (and presumably to yourself) documents which were disclosed in the course of the criminal case.

Secondly, I confirm that the record of Whatapp messages between the First Minister and myself from 5 November 2017 to 20 July 2018 supplied to the Parliamentary Committee by the First Minister and published on their website is correct



I look forward to hearing from you

Yours sincerely

Rt Hon Alex Salmond

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For more information please visit <http://www.symanteccloud.com>

From: [REDACTED]
Sent: 23 November 2020 15:11
To: James Hamilton [REDACTED]
Subject: FW: Correspondence for Mr Hamilton

Hi James,

Further correspondence from Mr Salmond attached.

Best wishes,

[REDACTED]

From: Alex Salmond
Sent: 23 November 2020 14:52
To: [REDACTED]
Subject: Correspondence for Mr Hamilton

Dear Mr Hamilton

Thank you for your letter of 29th October. I apologise for the delay in replying, but I had assumed that it had crossed with the exchange in the Scottish Parliament, detailed below, of that same date. To that end, I was awaiting a follow up letter from you, confirming that indeed your remit was not "limited to one aspect of the Ministerial Code";

- **Oliver Mundell (Dumfriesshire) (Con):** Will the First Minister agree to expand the ministerial code investigation to include her statements to Parliament and her actions on the legal advice regarding the judicial review into Alex Salmond's alleged behaviour?
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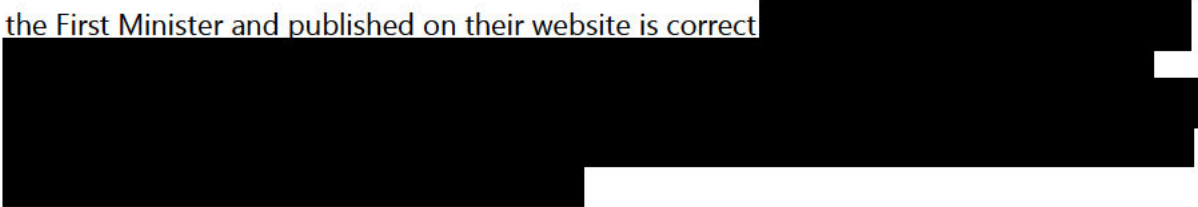
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Secondly, I confirm that the record of Whatapp messages between the First Minister and myself from 5 November 2017 to 20 July 2018 supplied to the Parliamentary Committee by

the First Minister and published on their website is correct



I look forward to hearing from you

Yours sincerely

Rt Hon Alex Salmond

Crown Office and Procurator Fiscal Service

Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA



Levy & McRae
Solicitors
70 Wellington Street,
Glasgow
G2 6UA

(sent by email)

FOR THE ATTENTION OF DAVID McKIE

RNID Typetalk prefix: [REDACTED]

DX: [REDACTED]

Your ref:

Our ref: KD/GS/ ED19004183

«Ourref»

17 September 2020

Dear Sirs

HMA V ALEX SALMOND

I refer to the above matter in which you represented Mr Salmond. As you will be aware, the Crown fully complied with its disclosure obligations in the case by disclosing relevant material to you to assist you in the proper preparation and presentation of your client's case.

I note that on 8 September 2020 there was widespread media coverage reporting that you had written to the Scottish Parliament's Committee on the Scottish Government Handling of Harassment Complaints). A copy of your letter to the Committee has been published on the Scottish Parliament website.

I note that in said letter you state that your client "is currently undertaking a review of the relevant documents and is committed to providing a list of documents from a) the judicial review and b) the disclosure to him in the criminal trial which have a direct bearing on the deliberations of the committee. It would be his intention to make submissions on those documents as part of the wider submission he wishes to make to the committee." Further, in the context of the information disclosed to your client in the criminal proceedings, you further state that "a great many documents have importance within the context of the remit of the Committee Inquiry but which were considered collateral to the trial itself. Again, our client will undertake to identify those documents and explain their relevance as part of his submission. The issue remains, however, that we are under an obligation not to share that material without the express consent of the Lord Advocate."

As you will be aware, section 162 of the Criminal Justice and Licensing (Scotland) Act 2010 states that in relation to all information disclosed to an accused by the Crown the accused must not use or disclose the information or

anything recorded in it other than for the proper preparation and presentation of the accused's case. The definition of accused for these purposes includes both your client and any solicitor or advocate acting on his behalf, and information means material of any kind given to or obtained by the prosecutor in connection with the proceedings . Further, section 163 of the said Act states that any person who knowingly uses or discloses information in contravention of section 162 commits an offence. There is no provision in said Act or otherwise which authorises the Lord Advocate to permit any party to depart from the requirements of section 162.

For the sake of completeness you will also be aware that Article 11 of the Law Society of Scotland Code of Conduct for Criminal Work states in relation to disclosed material that "a solicitor should not give a client, or any other third party, even on a temporary basis, copies of any documents, materials or recordings. There may be exceptional circumstances justifying a departure from this rule in a particular case and if the solicitor believes that such exceptional circumstances exist, he must refer the matter to the Professional Practice Department of the Law Society of Scotland for guidance."

I hope that this is helpful.

Yours faithfully



Kenny Donnelly
Procurator Fiscal, High Court

RE: LINE FOR CLEARANCE - Press Association - FM submissions in Ministerial Code self-referral

From: Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>
To: Veitch J (Jennifer) <jennifer.veitch@gov.scot>, Deputy First Minister and Cabinet Secretary
for Education and Skills <dfmcse@gov.scot>
Cc: [REDACTED] <[REDACTED]@gov.scot>, Permanent Secretary
<permanentsecretary@gov.scot>, Bruce A (Andrew) <andrew.bruce@gov.scot>, DG
Organisational Development & Operations <dgodo@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>,
Richards N (Nicola) <nicola.richards@gov.scot>, Bruce MG (Maureen)
<maureen.bruce@gov.scot>, Hynd JS (James) <james.hynd@gov.scot>, Permanent
Secretary <permanentsecretary@gov.scot>, Henderson G (Gavin)
<gavin.henderson@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, French C (Craig)
<craig.french@gov.scot>, Macniven R (Ruairidh) <ruairidh.macniven@gov.scot>, Solicitor
to the Scottish Government <solicitor@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, Nicolson S (Stuart) Special Adviser
<stuart.nicolson@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED]
(Daniel) <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>,
[REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>,
Rennick NS (Neil) <neil.rennick@gov.scot>, McAllister C (Colin)
<colin.mcallister@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Rennick NS
(Neil) <neil.rennick@gov.scot>, Johnston P (Paul) <paul.johnston@gov.scot>, Thomson
KAL (Ken) (Director-General) <ken.thomson@gov.scot>, DG Constitution and External
Affairs <dgcea@gov.scot>, Rogers D (David) (Constitution and Cabinet Director)
<david.rogers@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>,
[REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>,
[REDACTED] <[REDACTED]@gov.scot>

Date: Wed, 24 Feb 2021 15:41:45 +0000

Jennifer

~

DFM is content to clear the line.

~

Kind Regards

[REDACTED]

~

[REDACTED] Deputy Private Secretary to John Swinney MSP, Deputy First Minister and
Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot |
[REDACTED] | Mobile: [REDACTED] | Email: DFMCSE@gov.scot |
[REDACTED]@gov.scot

5N.07 St Andrew's House | Regent Road | Edinburgh | EH1 3DG

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2016. See www.lobbying.scot

~

From: Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>

Sent: 24 February 2021 13:29

To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

Cc: [REDACTED] <[REDACTED]@gov.scot>; Permanent Secretary
<PermanentSecretary@gov.scot>; Bruce A (Andrew) <Andrew.Bruce@gov.scot>; DG

Organisational Development & Operations <DGODO@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED]@gov.scot>;
Richards N (Nicola) <Nicola.Richards@gov.scot>; Bruce MG (Maureen)
<Maureen.Bruce@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; Permanent Secretary
<PermanentSecretary@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED]
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
[REDACTED] <[REDACTED]@gov.scot>; French C (Craig) <Craig.French@gov.scot>; Macniven R
(Ruairaidh) <Ruairaidh.Macniven@gov.scot>; Solicitor to the Scottish Government
<solicitor@gov.scot>; [REDACTED]@gov.scot>; Nicolson S (Stuart)
Special Adviser <Stuart.Nicolson@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
[REDACTED] <[REDACTED]@gov.scot>; Rennick NS (Neil)
<Neil.Rennick@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Johnston P (Paul)
<Paul.Johnston@gov.scot>; Thomson KAL (Ken) (Director-General) <Ken.Thomson@gov.scot>;
DG Constitution and External Affairs <dgcea@gov.scot>; Rogers D (David) (Constitution and
Cabinet Director) <David.Rogers@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]
<[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]
[REDACTED]@gov.scot>

Subject: LINE FOR CLEARANCE - Press Association - FM submissions in Ministerial Code self-referral

Importance: High

~

DFM PO

~

Grateful if you could advise if DFM would be content to clear lines for a media enquiry from the Press Association.

~

The Press Association seeks SG comment on a news release issued by the Conservatives, criticising SG's refusal to release the FM's Ministerial Code submissions to James Hamilton QC following her self-referral.

~

Policy and SpAds are content to propose re-issue of previously approved lines (when asked why FM's submissions were not being released following a request under FOISA):

~

SG spokesperson:

~

"The First Minister is cooperating fully with the self-referral process and has given evidence to the independent adviser. It would not be appropriate to release her written submissions while the independent adviser proceeds with the referral process. The report will be published when it has been completed."

~

Kind regards,

~

Jennifer

~

Jennifer Veitch

Strategic Communications Lead, Organisational Continuity Team

Jennifer.Veitch@gov.scot ~ M: [REDACTED]

~

~

~

RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

From: Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>
To: [REDACTED] <[REDACTED]@gov.scot>, Veitch J (Jennifer)
<jennifer.veitch@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Deputy
First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>
Cc: News Desk <newsdesk@gov.scot> [REDACTED]
[REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Hynd JS (James)
<james.hynd@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Henderson
G (Gavin) <gavin.henderson@gov.scot>, Rennick NS (Neil) <neil.rennick@gov.scot>,
[REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>,
[REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Rogers D
(David) (Constitution and Cabinet Director) <david.rogers@gov.scot>, French C (Craig)
<craig.french@gov.scot>, McAllister C (Colin) <colin.mcallister@gov.scot>, Nicolson S
(Stuart) Special Adviser <stuart.nicolson@gov.scot>, [REDACTED]
[REDACTED] <[REDACTED]@gov.scot>

Date: Wed, 24 Mar 2021 19:09:21 +0000

Folks,

The DFM is content to clear the line.

Thanks

[REDACTED]

[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and
Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel:
[REDACTED] | Email: DFMCSE@gov.scot

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(Scotland) Act 2016. See www.lobbying.scot*

From: [REDACTED]
Sent: 24 March 2021 18:46
To: Veitch J (Jennifer) ; [REDACTED] ; Deputy First Minister and Cabinet Secretary for
Education and Skills
Cc: News Desk ; [REDACTED] ; Hynd JS (James) ; [REDACTED]
[REDACTED] ; Henderson G (Gavin) ; Rennick NS (Neil) ; [REDACTED]
[REDACTED] ; Rogers D (David) (Constitution
and Cabinet Director) ; French C (Craig) ; McAllister C (Colin) ; Nicolson S (Stuart) Special
Adviser ; [REDACTED]
Subject: RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

Adding [REDACTED] for duty comms back in

[REDACTED] [REDACTED]

Newsdesk
[REDACTED]

From: Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>
Sent: 24 March 2021 18:37
To: [REDACTED] <[REDACTED]@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: News Desk <Newsdesk@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

DFM PO,

Could you please ask DFM to consider a very slightly updated version of the lines, as highlighted below, following feedback from David Rogers?

Grateful please for DFM's clearance to issue these two lines:

1. Daily Mail are asking: 'How many words from the Hamilton report were redacted'?

SG spokesperson:

"In a letter that accompanies his report, Mr Hamilton **set out acknowledged** the need to make redactions in order to comply with court orders in place to protect the identity of complainers. Redactions were kept to the minimum possible to meet these legal obligations and, as Mr Hamilton requested, we have undertaken those redactions in a way that indicates the length of text that has been redacted."

2. The National asks for a response to Mr Hamilton's comments on deferring consideration of whether the Ministerial Code needs revision.

SG spokesperson:

"We agree with Mr Hamilton's advice on this point and will await the further consideration of both Independent Advisers on the Ministerial Code."

Thanks,
Jen

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 24 March 2021 17:03
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: News Desk <Newsdesk@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Rennick

NS (Neil) <Neil.Rennick@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers
D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; French C (Craig)
<Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Veitch J (Jennifer)
<Jennifer.Veitch@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

PO DFM,

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SG spokesperson:

"We agree with Mr Hamilton's advice on this point and will await the further consideration of both Independent Advisers on the Ministerial Code."

Best wishes,

[REDACTED]

[REDACTED] | Team Leader | Newsdesk | Scottish Government | news.gov.scot | Desk: [REDACTED]

RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

From: [REDACTED]@gov.scot>
To: Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Veitch J (Jennifer) <jennifer.veitch@gov.scot>, [REDACTED]@gov.scot>
Cc: News Desk <newsdesk@gov.scot>, [REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Hynd JS (James) <james.hynd@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Henderson G (Gavin) <gavin.henderson@gov.scot>, Rennick NS (Neil) <neil.rennick@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>, French C (Craig) <craig.french@gov.scot>, McAllister C (Colin) <colin.mcallister@gov.scot>, Nicolson S (Stuart) Special Adviser <stuart.nicolson@gov.scot>
Date: Wed, 24 Mar 2021 19:10:09 +0000

Thanks [REDACTED], will issue this now.

[REDACTED]

[REDACTED] | SG Duty Comms
[REDACTED]

From: [REDACTED] On Behalf Of Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 24 March 2021 19:09
To: [REDACTED]; Veitch J (Jennifer); [REDACTED]; Deputy First Minister and Cabinet Secretary for Education and Skills
Cc: News Desk; [REDACTED]; Hynd JS (James); [REDACTED]; Henderson G (Gavin); Rennick NS (Neil); [REDACTED]; Rogers D (David) (Constitution and Cabinet Director); French C (Craig); McAllister C (Colin); Nicolson S (Stuart) Special Adviser; [REDACTED]
Subject: RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

Folks,

The DFM is content to clear the line.

Thanks

[REDACTED]

[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: [REDACTED] Email: DFMCSE@gov.scot

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Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 24 March 2021 18:46
To: Veitch J (Jennifer) <Jennifer.Veitch@gov.scot> [REDACTED] <[REDACTED]@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: News Desk <Newsdesk@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>
Subject: RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

Adding [REDACTED] for duty comms back in

[REDACTED]
Newsdesk
[REDACTED]

From: Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>
Sent: 24 March 2021 18:37
To: [REDACTED] <[REDACTED]@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: News Desk <Newsdesk@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: RE: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

DFM PO,

Could you please ask DFM to consider a very slightly updated version of the lines, as highlighted below, following feedback from David Rogers?

Grateful please for DFM's clearance to issue these two lines:

1. Daily Mail are asking: 'How many words from the Hamilton report were redacted'?

SG spokesperson:

"In a letter that accompanies his report, Mr Hamilton **set out acknowledged** the need to make redactions in order to comply with court orders in place to protect the identity of complainers. Redactions were kept to the minimum possible to meet these legal obligations and, as Mr Hamilton requested, we have undertaken those redactions in a way that indicates the length of text that has been redacted."

2. The National asks for a response to Mr Hamilton's comments on deferring consideration of whether the Ministerial Code needs revision.

SG spokesperson:

"We agree with Mr Hamilton's advice on this point and will await the further consideration of both Independent Advisers on the Ministerial Code."

Thanks,
Jen

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 24 March 2021 17:03
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: News Desk <Newsdesk@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: LINES TO CLEAR PLS Media queries - Hamilton redaction and Ministerial Code

PO DFM,

Grateful please for DFM's clearance to issue these two lines:

1. Daily Mail are asking: 'How many words from the Hamilton report were redacted'?

SG spokesperson:

"In a letter that accompanies his report, Mr Hamilton set out the need to make redactions in order to comply with court orders in place to protect the identity of complainers. Redactions were kept to the minimum possible to meet these legal obligations and, as Mr Hamilton requested, we have undertaken those redactions in a way that indicates the length of text that has been redacted."

2. The National asks for a response to Mr Hamilton's comments on deferring consideration of whether the Ministerial Code needs revision.

SG spokesperson:

"We agree with Mr Hamilton's advice on this point and will await the further consideration of both Independent Advisers on the Ministerial Code."

Best wishes,

[Redacted]

[Redacted] [Redacted] | Team Leader | Newsdesk | Scottish Government | news.gov.scot | Desk: [Redacted]
[Redacted] Mobile: [Redacted]

From: [REDACTED]
Sent: 24 August 2020 09:07
To: James Hamilton [REDACTED]
Subject: RE: Referral

Hi James,

No problem at all. Would it be ok to phone at 10.30? I will try the landline first and then the mobile if there are any problems.

Best wishes,

[REDACTED]

From: James Hamilton
Sent: 23 August 2020 20:51
To: [REDACTED]
Subject: Re: Referral

Hi [REDACTED]

Sorry for the delay in replying.

A call at 10.00 or 10.30 am would suit. If that doesn't work for you then some time around 2.00 -2.30 would be equally OK. Basically I am at home all day but I hope to spend some time on my vegetable allotment while the weather stays fine!

The landline, [REDACTED] is usually more reliable than the mobile [REDACTED], but either should work. I will probably have the mobile with me all the time if the landline doesn't work.

Best wishes

James

On Fri, 21 Aug 2020 at 17:23, <[REDACTED]@gov.scot> wrote:
Hi James,

Hope you are enjoying the wedding.

I will look into your questions around the Parliamentary Committee and how the various different investigations fit together, and will get back to you next week with further information.

My diary for Monday is pretty clear, so let me know when would suit you for a call.

Best wishes,

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 20 August 2020 16:05
To: [REDACTED] [REDACTED]@gov.scot>
Subject: Re: Referral

Hi [REDACTED]

Thank you for your email and it is good to hear from you. I look forward to working with you.

I would be interested in knowing a little more about where the parliamentary enquiry is likely to lead. I am used to the Irish system where many years ago our courts constrained parliamentary enquiries when they held that they could not make findings of fact adverse to the reputation of individuals as this would trespass on the judicial function. Consequently enquiries can hold hearings and examine witnesses but find it difficult to make conclusions of fact. An attempt to amend our Constitution to change this failed in a popular referendum.

I assume your Parliament can make findings of fact but is it likely to do so? I imagine parliamentary enquiries, as in most democracies, tend to become very politicised. Can you give me any sense of what is the balance of political forces and the likelihood that the parliamentary enquiry will arrive at definite conclusions as to what happened? I would just like to have a better sense of where the review I am conducting will fit into the overall scheme of things. Do we have any likely timetable for the parliamentary enquiry to conclude its business?

It would be useful for us to have a brief discussion. I am at a wedding tomorrow so that is not a good day. I could talk to you early next week if that suited. I am available for the rest of today but I don't want to catch you on the hop with very short notice!

Your current programme of work seems appropriate. I don't know if there is anything else that emerged in the Salmond trial of relevance to my terms of reference apart from Mr Aberdeen. I watched Kirsty Warke's BBC 2 programme earlier this week which was of great human interest but apart from Mr Aberdeen's evidence nothing particular struck me that I might need to follow up on.

On the subject of a legal adviser Dame Elish Angiolini might have some ideas as to who might be suitable. What I probably need most is not so much formal legal advice but somebody to bounce ideas off and to guide me away from any legal pitfalls. The Irish legal system is in substance and procedure very similar to the English (with the added constitutional layer) but I am well aware that the Scottish system has many differences from

either the English or the Irish and superficial resemblances can sometimes hide more fundamental differences!

Thank you for sending me the link to the parliamentary report.

Best wishes

James Hamilton

On Thu, 20 Aug 2020 at 13:09, [REDACTED]@gov.scot> wrote:

Dear James,

Further to James Hynd's email earlier in the week, I wanted to get in touch directly to introduce myself. As James has said, I have agreed to take on the support and secretariat role for your work.

I'm looking forward to working with you, and have been looking through the various background documents to get up to speed and make sure I've understood the key next steps.

At the moment, I am working on the following:

- drafting the remaining letters to witnesses, as previously discussed with James.
- progressing work to identify a suitable legal adviser
- seeking a transcript of Mr Aberdein's witness statement to the High Court which discussed matters within the scope of this enquiry

If there is anything else that would be helpful for me to work on at the moment? Also, would it be helpful to have an introductory phone call?

In response to your question on the Parliamentary Committee, the Official Report of the Committee on the Scottish Government Handling of Harassment Complaints can be found at the following link:

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12746>

If it would be helpful I can also send a link to the archived video of the Committee session.

Best wishes,

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 19 August 2020 12:39
To: Hynd JS (James) <James.Hynd@gov.scot>
Cc: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Re: Referral

Dear James

The date of 7 June 2018 was an error. It should have referred to 2 April when the first meeting between Mr Salmond and the First Minister took place. I have corrected this and expanded this part of the letter.

I have added two further questions to paragraph 4 as well as a minor correction on the first page.

I attach revised letter with the changes tracked.

I watched on BBC last night some footage of the parliamentary inquiry in which Leslie Evans was giving evidence. I assume a transcript of the inquiry's proceedings will be available. Would it be possible for me to be provided with a copy?

Best wishes

James

On Mon, 17 Aug 2020 at 13:18, <James.Hynd@gov.scot> wrote:
Dear James

As promised, I am now working on the letters you have requested.

Here is a draft of the letter to Ms Sturgeon. I thought it worth sending this now just to test whether this is what you are looking for.

You will see that I am asking for clarification from you regarding one date, 7 June 2018.

I will press on with the other drafts.

I am also pleased to let you know that I now have someone in place to fulfil the secretariat function for you. This is [REDACTED], copied, who is a senior manager within the SG and has been working for me in recent months on matters to do with emergency Coronavirus legislation and guidance. [REDACTED] will now be reading into the subject and will be able to pick up the support function very soon.

James

James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh

From: James Hamilton [REDACTED]
Sent: 14 August 2020 14:14
To: Hynd JS (James) <James.Hynd@gov.scot>
Subject: Referral

Dear James

I refer to our telephone conversation on Tuesday. I confirm that I would like you to prepare letters to go to the key potential witnesses inviting written information and observations on the issues the subject matter of the review. As we discussed I suggest I might invite a response within four weeks and request the recipients of the letters to indicate whether they can comply with this request.

The letters should invite a general response. In addition recipients should be asked to deal in particular with specific issues as follows:

First Minister: Details of all contacts with the former First Minister between 16 January 2018, when the first complaint against him was made, and 18 July 2018, when the second telephone conversation took place, and confirmation that there was no contact, direct or indirect, thereafter. Apart from the five contacts already disclosed, the three meetings and two telephone conversations, were there any indirect contacts? In particular, was there a meeting prior to 7 June 2018 between Mr Aberdein and the First Minister, [REDACTED]

In the case of each meeting or contact who initiated it? Who attended, participated, witnessed or was informed about it? What was the purpose of the meeting or contact? What was the First Minister's purpose in participating? What was discussed and who said what?

The First Minister has stated that at the first meeting on 2 April 2018 she explained that she had no role in relation to the investigation or determination of the complaints. In the light of this explanation why did she not thereafter simply decline to discuss the matter further with the former First Minister? What did she see as the purpose of allowing these contacts to continue?

The First Minister should be asked to provide any notes, memoranda, minutes or other records of these meetings or contained in any communications concerning or describing any of these contacts including communications to civil servants or special advisers.

When did the First Minister inform the Permanent Secretary of these contacts? If she did not do so immediately after the first contact, why did she not do so then?

Did the First Minister ask the Permanent Secretary, or any other civil servant or special adviser, for advice or receive any advice from any such person, in connection with any matters raised in the course of contacts with the former First Minister? If so, when, and what was the import of the advice?

The First Minister should be asked to provide any notes, memoranda, etc., concerning or containing any such advice.

The First Minister's Chief of Staff. (Is this Liz Lloyd?)

This person apparently attended the first meeting. She needs to be asked for details of the meeting as above. She also needs to be asked whether she was aware of any other contacts

[REDACTED] She

should be asked for notes, memoranda, etc. as above.

Permanent Secretary (Ms. Leslie Evans)

She should be asked when she was first informed. What was she told about contacts with and representations on behalf of the former First Minister and when? Was she asked for or did she offer any advice? If so, what did she advise? She should be asked about how the investigation was conducted, procedures, etc. Was there any interference with these by the First Minister or any other person? Was she made aware of any representations by the former First Minister or on his behalf? What does she know about suggestions of mediation apparently put forward by the former First Minister? Did he approach her about this at any time?

The former First Minister

He should be asked similar questions to those for the First Minister concerning the details of the contacts. What was his purpose in contacting the First Minister? What was her response?

[REDACTED]

He should be asked if Mr Aberdein was acting on his behalf and if so what were his instructions. Was he aware that the First Minister had no role in relation to the investigations? Has he any written notes or memoranda?

Mr Aberdein

[REDACTED]

If you can do drafts incorporating these questions I will approve them. Please also let me know if there is anything further you think should be asked at this stage. Each letter should indicate that I may wish to revert with further questions, and also that each recipient is invited to inform me of any other matters they consider might be relevant. Finally, please feel free to make any general or particular comments or observations you think might be appropriate. As you are aware I am concerned about the possibility of some matters being

hidden under the cloak of legal professional privilege but on reflection I think it better to leave this unless and until it arises.

Best wishes

James

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Min Code Referral

From: Hynd JS (James) <james.hynd@gov.scot>
To: [REDACTED] <[REDACTED]@gov.scot>, Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>
Date: Mon, 24 Aug 2020 07:29:49 +0000
Attachments: Note to [REDACTED] [REDACTED].docx (23.36 kB)

[REDACTED], David

~

I attach a draft of the note to [REDACTED] formally recording [REDACTED] appointment to the secretariat role. it would be helpful to get your thoughts on this.

~

~

James
James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh

[REDACTED]

~

~

~

From: James Hynd
Cabinet Secretariat
24 August 2020

[REDACTED] [REDACTED]

Copy to: David Rogers
Kenneth Hogg
[REDACTED] [REDACTED]

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF REFERRAL

Purpose

1. The purpose of this note is to set out the terms under which you will provide head of secretariat support to James Hamilton, the Independent Adviser on the Ministerial Code, in respect of the current referral which he has been commissioned to undertake.

Timing

2. Your appointment to this role was agreed on 16 August.

Background

3. The Deputy First Minister set out the terms of the remit for the referral by way of an answer to a Parliamentary Question on 3 August. The full text of this is attached at annex A.

4. As set out below, there are a number of important aspects that you will need to ensure are in place for the proper conduct of the referral.

Independence

5. Mr Hamilton's role is independent of the SG. He is free to follow the evidence as he considers necessary in order to finalise his report. In supporting Mr Hamilton it is of the highest importance that you take all necessary steps to protect that independence from any actual or perceived interference.

Ministerial Oversight

6. The First Minister has delegated to the Deputy First Minister responsibility for overseeing this referral. When any matter arises that requires a Ministerial decision, you should refer that matter to DFM. No papers should be copied to the First Minister or her office, which, for these purposes, should extend to include the First Minister's Chief of Staff.

[APG]

Timetable

7. No specific deadline has been set for the completion of the self-referral. You will wish to ensure that you provide as much support as Mr Hamilton requires to allow him to complete his report as soon as practicably possible.

Information Assurance and Data Protection

8. Requests by Mr Hamilton for information held by the Scottish Government, and which is not otherwise in the public domain, will need to be considered against the SG's legal duties and other considerations, for example, legal professional privilege.

9. You should seek formal advice on these matters from OCT who will, as necessary, seek advice from, or direct you to, Lesley Fraser as SIRO.

Record Keeping and FoI

10. Information created in the course of the referral should be held securely on behalf of Mr Hamilton. You will wish to consider creating a restricted access folder in Objective, with permissions restricted to the smallest possible number of people. For the avoidance of doubt, I should not be given access to this folder or provided with papers unless there is a specific, and recorded, need to refer a matter to me.

11. It will be important to maintain a full record of the conduct of the referral.

12. You should seek advice from the FoI unit in respect of the application of FoI to information held by the Scottish Government on behalf of Mr Hamilton.

Legal Advice

13. As an independent adviser, SGLD will not be able to take instructions from Mr Hamilton, or you on his behalf. It will be necessary to secure external legal advice for Mr Hamilton consistent with normal procurement rules.

Resourcing

14. Mr Hamilton's role is unpaid. He is entitled to reimbursement of reasonable costs on civil service terms and conditions. In light of the COVID-19 restrictions it is unlikely that Mr Hamilton will travel to Scotland, with all meetings/interviews held remotely.

15. In light of the de minimis costs expected to arise, and the short-term nature of the referral, no specific cost centres have been set up. Costs should be attributed to budget lines within the Cabinet and Constitution Directorate. You should consult the BCLO about these arrangements.

[APG]

Support

16. Administrative support will be provided to you to assist you in this role. You should advise me if constraints on resourcing are interfering with the timely delivery of the remit.

Advice

17. If you require advice on any aspect of your role you should in the first instance seek advice, in writing, from David Rogers.

James Hynd
Cabinet Secretariat

24 August 2020

[APG]

**SCOTTISH PARLIAMENT
WRITTEN ANSWER**

3 August 2020

Index Heading: Constitution and External Affairs

Clare Adamson (Motherwell and Wishaw) (Scottish National Party): To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

S5W-31054

John Swinney: In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being

[APG]

undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

[APG]

1. Review any relevant documentation relating to the meetings and discussions listed above.
2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

The Scottish Government will provide secretariat support as required.

[APG]

From: [REDACTED]
Sent: 25 January 2021 17:43
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: Mr Hamilton- video interviews

Dear Douglas,

Apologies for the length of time since I last contacted you- hope you are well and that you had a good Christmas and New Year.

Mr Hamilton has been considering various written statements, and is now at the point where he would like to conduct video interviews with some participants.

At the moment, we have a meeting with the Permanent Secretary scheduled for the afternoon of the 27th, and a meeting with the First Minister on the afternoon of the 1st of February.

[REDACTED]

Happy to discuss.

Best wishes,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

From: [REDACTED]
Sent: 25 January 2021 10:01
To: Alex Salmond [REDACTED]
Subject: RE: Correspondence for Mr James Hamilton

Dear Mr Salmond,

I can confirm that this has been received, and sent to Mr Hamilton.

Best wishes,

[REDACTED]

From: Alex Salmond [REDACTED]
Sent: 25 January 2021 09:30
To: [REDACTED]@gov.scot>
Subject: Correspondence for Mr James Hamilton

25th January 2021

Dear [REDACTED]

Correspondence for Mr Hamilton

Please see attached correspondence, for the attention of Mr James Hamilton.

Please kindly confirm receipt, and thank you again for your assistance.

Yours for Scotland

Alex Salmond

RE: Perm Sec interview

From: [REDACTED]@gov.scot>
To: James Hamilton [REDACTED]>
Date: Mon, 25 Jan 2021 17:42:07 +0000
Attachments: Video Interview- joining instructions.docx (14.98 kB)

Hi James,

Apologies, it would have been helpful if I attached the right thing! I've reattached an updated paper with some short joining instructions. Let me know if this looks ok and I will send it to the Perm Sec's office.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 21 January 2021 14:09
To: 'James Hamilton' <[REDACTED]>
Subject: RE: Perm Sec interview

Hi James,

No problems, I've confirmed the interview with Private Office.

I've attached an updated set of joining instructions covering key aspects of the interview procedure, with some questions about certain aspects. Happy to discuss.

Before we issue to participants I think it would be good to test that we can get Cisco Webex to work on our respective devices. I will also do a separate test of the meeting recording function/playback etc.

I also wanted to double check the following:

- would you like to share a list of questions in advance?
- would you like Mr Ross to be present?
- would you like Mr Ross to look at the questions before the interview?

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]>
Sent: 21 January 2021 12:41
To: [REDACTED]@gov.scot>
Subject: Re: Perm Sec interview

Hi [REDACTED]

I am inclined to get it out of the way. There may not be a whole lot I need to ask her about. I would be interested to know a little more about how the "Procedure" was adopted. It would also be important in my view to hear her confirm that the FM did not interfere in that process.

Best. wishes

James

On Thu, 21 Jan 2021 at 12:15, <[REDACTED]@gov.scot> wrote:

Hi James,

Just wanted to check if you would like the Perm Sec interview to go ahead next week- her office have been in touch to confirm if it is going ahead as we held the slot on a contingency basis.

Best wishes,

[REDACTED]

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Video Interview with James Hamilton, Independent Advisor on the Ministerial Code

Thank you for agreeing to participate in a video interview with James Hamilton, Independent Advisor on the Ministerial Code.

These joining instructions explain key aspects of how the interview will be conducted.

The time and date of the relevant interview has been agreed, and a calendar request created.

Video Conferencing

The current lockdown arrangements make it legally mandatory for work to be done at from home where possible; in addition, travel restrictions relating to domestic and international travel are in place. For these reasons, the interviews will be conducted via videoconference, using Cisco Webex.

This software allows video and audio conferencing, and can be accessed via Scots, Microsoft and Apple devices.

Participants need to create a Cisco Webex account to access the meeting. Instructions on how to do this can be found here: <https://cart.webex.com/sign-up-webex>

The secretariat will arrange a test of the videoconferencing arrangements before each interview.

Attendees

Attendees may bring a companion to the meetings, e.g. from a trade union if they are a member.

A member of the secretariat will attend the meetings, to ensure the meeting progresses smoothly, and to ensure the recording of the meeting.

Recording of the meeting

An audio recording of the meeting will be taken. The secretariat will also take notes.

The secretariat will use the recordings to produce a transcript of the meeting. The transcript will be shared with the participant within 10 working days of the meeting.

The audio recording and transcript will be retained during the course of the investigation. The audio recording will then be destroyed. The transcript will be retained.

Opening remarks

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]>
Date: Mon, 25 Jan 2021 10:42:20 +0000
Attachments: Introductory remarks.docx (14.07 kB)

Hi James,

Please see attached draft opening remarks.

Best wishes,

[REDACTED]

Introductory remarks

Thank you for agreeing to participate in this interview. As you know, I am conducting an investigation into the First Minister's self-referral under the Ministerial code concerning meetings between the First Minister and Alex Salmond in 2018.

Thank you for the written statement you have provided. I have used the information in this, and other statements I have received, to develop a list of further questions I would like to discuss with you.

██████████, who provides secretariat support to the investigation, will also be present during the interview to take notes and to provide practical and technical support if required.

The meeting will also be recorded, so that a transcript of the conversation can be produced. This will be shared with you as a record of the discussion.

In producing my report, I may find that I need to refer to the information you provide. I will be taking appropriate action to ensure that my report is compliant with any relevant court order.

Do you have any questions about the process, or how the information you provide will be used?

In that case, let us turn to the main part of the discussion.

From: Alex Salmond <[REDACTED]>
Sent: 25 January 2021 09:30
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Correspondence for Mr James Hamilton

25th January 2021

Dear [REDACTED]

Correspondence for Mr Hamilton

Please see attached correspondence, for the attention of Mr James Hamilton.

Please kindly confirm receipt, and thank you again for your assistance.

Yours for Scotland

Alex Salmond

25th January 2021

Mr James Hamilton
Independent Adviser on the Scottish Ministerial Code

Dear Mr Hamilton,

My submission paragraph 27

Subsequent to making my submission dated 31st December 2020, my legal team has identified a point of additional importance in relation to the events described in paragraph 27. After receiving the call from the First Minister, I spoke with both my Counsel and my solicitor. I alerted them to the content of the telephone call I had received from the First Minister. That was in the same terms as outlined in paragraph 27. The reason for doing so was to seek specific legal advice on the response which would be required if we were to follow the advice of the First Minister and submit a substantive response on the specific complaints. On receipt of the letter from the Permanent Secretary which the First Minister had indicated would arrive, a legal consultation was held involving both solicitors and Counsel. The following day (19th July 2018) a letter of reply was sent to the Permanent Secretary.

If you require confirmation of the correspondence (and indeed copies of the exchange of letters on 18th and 19th July 2018) and the fact that specific legal advice was taken on the proposal made to me by the First Minister after the call on 18th July 2018, my solicitors will be able to provide that to you.

Yours for Scotland

Rt Hon Alex Salmond

From: Elizabeth Lloyd [REDACTED] >
Sent: 25 January 2021 17:55
To: [REDACTED]@gov.scot>
Subject: Submission for Mr Hamilton

[REDACTED]

Please find attached a submission for Mr Hamilton, and two related documents where I have highlighted the relevant sections.

I'm not sure whether it's with you or with me on availability, however I'll be available as suits Mr Hamilton, this week or next.

As an aside, do you have a timeline for when he intends to complete his work. I'm not sure if I'm supposed to ask that, so if it wouldn't be appropriate for me to know, don't worry.

Liz

--

Liz Lloyd
[REDACTED]

www.twitter.com/eliz_lloyd

www.snp.org

www.scotland.gsi.gov.uk

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Thank you for your letter of 19th January.

Firstly my apologies that you have had to return to me for this information.

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Government	Percentage
Current government	85%
Previous government	15%

[REDACTED]

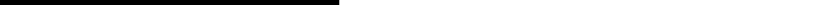




Figure 6

A bar chart titled "Percentage of Respondents Who Believe That the Current Level of Corruption in the United States Is Acceptable or Unacceptable". The x-axis lists two categories: "Acceptable" and "Unacceptable". The y-axis represents the percentage, ranging from 0% to 100% in increments of 20%. There are two bars: one for "Acceptable" which reaches approximately 8%, and one for "Unacceptable" which reaches approximately 92%.

Response	Percentage
Acceptable	~8%
Unacceptable	~92%














































SEXUAL HARASSMENT

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SEXUAL HARASSMENT

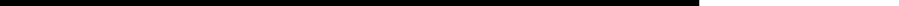
[illegible]

[REDACTED]

[REDACTED]

Gender	Blue (%)	Red (%)
Male	85	15
Female	65	35

Government	Percentage
Current government	85%
Previous government	15%



[REDACTED]

[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]

Government	Percentage
Current government	95%
Previous government	5%

SEXUAL HARASSMENT



SEXUAL HARASSMENT

ISSUE: 01 March – Scottish Parliament will publish the results of its survey on sexual harassment at 2pm today.

ISSUE: 18 Feb - Sunday Times revealed the texts Mark McDonald is alleged to have sent to an unnamed woman last year for which he resigned.

ISSUE: 18 Feb – Conservatives told Sunday newspapers the investigation into Mark McDonald had “dragged on for too long” They said he should either return to parliament this week or resign his seat.

ISSUE 14 Feb – Following recent reports of sexual misconduct cases in charities, the Scottish Charity Regulator (OSCR) contacted all charities with information on safeguarding and a request that trustees consider this at their next Board meeting

ISSUE: 8 Feb - A new Scottish Ministerial Code was published. This adds references

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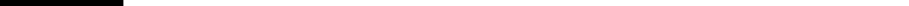
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Service	Used (%)	Not used (%)
Used	~85	~15
Not used	~15	~85



[illegible]

Re: FW: Hamilton inquirt - Daily Mail

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED] <[REDACTED]@gov.scot>
Date: Thu, 25 Feb 2021 16:27:53 +0000

Absolutely!

On Thu 25 Feb 2021 at 16:26 <[REDACTED]@gov.scot> wrote:

Hi James,

The Daily Mail really don't seem to have taken the hint to send their media enquiries to me not SG...

I think the response is the usual one about not commenting on process until the report is published. If you are content with that I can issue the line.

Best wishes,

[REDACTED]

From: [REDACTED] <[REDACTED]@dailymail.co.uk>
Sent: 25 February 2021 14:15
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Hamilton inquirt

Hi [REDACTED],

I understand Alex Salmond hasn't yet spoken to James Hamilton. Why is that? And has he spoken to him at all?

Is this part of the evidence gathering process?

Is James Hamilton speaking to everyone he receives evidence from/can we find out how many people he has spoken to?

It would be great if you could get back to me on this.

Kindest,

[REDACTED]

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From: [REDACTED]
Sent: 25 February 2021 12:35
To: James Hamilton <[REDACTED]>
Subject: RE: Mr Aberdeen- draft email

Hi James,

I've redrafted in line with your comments- see below. I've also attached a letter to Duncan Hamilton.

Mr Salmond has responded re. the interview- suggesting late Monday afternoon or Tuesday- will forward on.

Best wishes,

[REDACTED]

Dear Mr Aberdeen,

Thank you for the written submissions you have provided to me. I am now nearing the end of my investigation, and in the course of compiling my report have identified some additional questions I would like to ask.

In your submission, you set out that at the meeting held on 29th of March 2018 you gave the First Minister "a broad summary" of the complaints. Would you be able to provide a more precise account as to what this discussion covered? I would be happy to arrange a discussion via video conference if you would like to discuss matters, or consider a written submission if that would be your preference.

Yours sincerely,

James Hamilton

From: James Hamilton <[REDACTED]>
Sent: 25 February 2021 09:55
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Re: Mr Aberdeen- draft email

Hi [REDACTED]

The letter looks fine. I would prefer to ask him if he can be more precise. Also, I would give him the option of discussing in an interview or providing a written answer if he prefers.

Can you also do a letter to Douglas Hamilton referencing AS' waiver.

I have the statement from Kevin Pringle.

Best wishes

James

On Thu, 25 Feb 2021 at 09:32, <[REDACTED]@gov.scot> wrote:
Hi James,

I've drafted a short letter to go to Mr Aberdeen- see below.

Best wishes,

[REDACTED]

Dear Mr Aberdeen,

Thank you for the written submissions you have provided to me. I am now nearing the end of my investigation, and in the course of compiling my report have identified some additional questions I would like to ask.

In your submission, you set out that at the meeting held on 29th of March 2018 you gave the First Minister "a broad summary" of the complaints. Would you be able to provide any more detail as to what this discussion covered- for example whether it included any specifics of the circumstances?

Yours sincerely,

James Hamilton

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James Hamilton
Independent Adviser on the Scottish Ministerial Code

c/o E [REDACTED]@gov.scot

Duncan Hamilton
AMA Advocates
By email to: duncanhamilton@amadvocates.co.uk

25 February 2021

Dear Duncan Hamilton,

Further to our correspondence in November 2020, in which you explained that you would be unable to provide me with a statement due to professional confidentiality, I understand that Mr Salmond has informed you that he would be happy for you to provide a statement to me.

I have copied the relevant section of my recent communications with Mr Salmond for reference.

I have, therefore, intimated to Mr Hamilton that in order to confirm factual events and recollections relevant to your investigations I am content that he provide answers to any questions you may have.

On that basis, I wanted to ask if you would be happy to provide a written statement, covering the issues set out in my letter of 25 November 2020. I have attached this as an appendix to this letter.

Yours sincerely,

James Hamilton.

Ministerial Code Referral

From: James Hamilton - [REDACTED]
To: Hynd JS (James) <james.hynd@gov.scot>
Date: Sat, 25 Jul 2020 12:12:56 +0000

Dear Mr Hynd

Since we last spoke I have given some thought to how to proceed. I have come to the conclusion that the best course of action is to press ahead now with the task I have accepted notwithstanding the parliamentary committee's intention to issue its own report.. It is quite true that the scope of the parliamentary inquiry is broad and expressly includes the matter which I have been asked to report on under the referral procedure provided for in the Ministerial Code. However, the referral procedure is intended to produce an independent expert assessment whereas the parliamentary inquiry is likely to produce a more political result. Having undertaken the task I would be loathe to walk away from it notwithstanding the obvious difficulties.

At this stage, therefore, it is necessary to settle the terms of the remit. I was content with the draft provided in your letter and email of 30 January and I suggest that it be formally adopted by the First Minister.

It will be necessary to appoint somebody to act as secretary/ administrator /organiser to the referral procedure. This will need to be done as soon as possible as I would wish to respond to the request from the Parliament preferably before their proposed deadline of 4 August which is now just over a week away. At the very least the letter needs to be acknowledged before that date.

I would like to see some of the recent opinions given under the referral procedure to get some sense of the "house style". Are they available on a website? I assume Ms Fabiani has correctly stated the position that it has been the practice to annex evidence given to previous referrals to the independent panellist's report when issued. If so I would propose if possible to follow this practice and would now so inform the parliamentary committee. I would also propose to point out to the committee that I do not have any evidence at present concerning the matters they are asked to inquire into and will not have any such evidence other than what will be made publicly available in my report. I will suggest that in these circumstances it will not be appropriate that I should be asked to give evidence before the committee. I think this reply should be issued through the secretary to the referral as I do not think I should respond directly to the parliamentary committee using my personal email.

Finally, having had the opportunity to discuss the procedures adopted in previous referrals with Dame Elish Angiolini she has informed me that it has been a usual practice to appoint a local legal practitioner to assist the independent panel member. I would be very content to follow this practice. It is always very helpful to have somebody to discuss problems and ideas with and to assist with drafting, particularly in my situation as an outsider which while it confers the advantage of independence has the drawback that one unfamiliar with the local procedures and culture may miss important nuances.

Yours sincerely

James Hamilton

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RE: Ministerial Code Referral

From: Hynd JS (James) </o=tse/ou=tseexchsite01/cn=recipients/cn=hyndj">
To: James Hamilton <[REDACTED]>
Date: Sat, 25 Jul 2020 19:49:29 +0000

Dear Mr Hamilton

I am writing simply acknowledge receipt of your email.

I will pick up these various point and respond to you as soon as I can.

With best wishes

James
James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh
[REDACTED]

From: James Hamilton [REDACTED]
Sent: 25 July 2020 13:13
To: Hynd JS (James) <James.Hynd@gov.scot>
Subject: Ministerial Code Referral

Dear Mr Hynd

Since we last spoke I have given some thought to how to proceed. I have come to the conclusion that the best course of action is to press ahead now with the task I have accepted notwithstanding the parliamentary committee's intention to issue its own report.. It is quite true that the scope of the parliamentary inquiry is broad and expressly includes the matter which I have been asked to report on under the referral procedure provided for in the Ministerial Code. However, the referral procedure is intended to produce an independent expert assessment whereas the parliamentary inquiry is likely to produce a more political result. Having undertaken the task I would be loathe to walk away from it notwithstanding the obvious difficulties.

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Yours sincerely

James Hamilton

This email has been scanned by the Symantec Email Security.cloud service.

FW: Ministerial Code Referral

From: Hynd JS (James) <james.hynd@gov.scot>
To: Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>
Date: Sat, 25 Jul 2020 19:49:43 +0000

For info.

James
James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh


From: James Hamilton <[REDACTED].[REDACTED]@[REDACTED].[REDACTED]>
Sent: 25 July 2020 13:13
To: Hynd JS (James) <James.Hynd@gov.scot>
Subject: Ministerial Code Referral

Dear Mr Hynd

Since we last spoke I have given some thought to how to proceed. I have come to the conclusion that the best course of action is to press ahead now with the task I have accepted notwithstanding the parliamentary committee's intention to issue its own report.. It is quite true that the scope of the parliamentary inquiry is broad and expressly includes the matter which I have been asked to report on under the referral procedure provided for in the Ministerial Code. However, the referral procedure is intended to produce an independent expert assessment whereas the parliamentary inquiry is likely to produce a more political result. Having undertaken the task I would be loathe to walk away from it notwithstanding the obvious difficulties.

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Yours sincerely

James Hamilton

This email has been scanned by the Symantec Email Security.cloud service.

RE: Webex meeting invitation: Test

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]>
Date: Mon, 25 Jan 2021 11:33:41 +0000

Hi James,

That's great. I've had a go at testing the recording for the interviews already and it seems to work ok, but is quite dependant on my internet connection being good so I might play about a bit with whether being closer to the router improves things. Thankfully my partner is on leave on Wednesday so I can tell him he's not to use the internet for the duration of the call so there isn't competition for the bandwidth!

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]>
Sent: 25 January 2021 11:30
To: [REDACTED]@gov.scot>
Subject: Re: Webex meeting invitation: Test

Hi [REDACTED]

Thanks- I will attend this meeting at 15.00.

I will get back to you later this morning with the questions for Leslie Evans.

Best wishes

James

On Mon, 25 Jan 2021 at 11:07, [REDACTED] <messenger@webex.com> wrote:

[REDACTED] is inviting you to a scheduled Webex meeting.

Monday, January 25, 2021

3:00 PM | (UTC+00:00) Dublin, Edinburgh, Lisbon, London | 30 mins

[Join meeting](#)

More ways to join:

Join from the meeting link



Join by meeting number

Meeting number (access code): 175 361 1835

Meeting password: M23fJVnqxY6 (62335867 from phones and video systems)

Tap to join from a mobile device (attendees only)

[+44-20-7660-8149..1753611835#62335867#](tel:+44-20-7660-8149..1753611835#62335867#) United Kingdom Toll

Some mobile devices may ask attendees to enter a numeric meeting password.

Join by phone

+44-20-7660-8149 United Kingdom Toll

[Global call-in numbers](#)

Join by video system, application or Skype for business

Dial [1753611835@webex.com](tel:1753611835)

You can also dial 62.109.219.4 and enter your meeting number.

Need help? Go to <https://help.webex.com>

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

From: [REDACTED]

Sent: 25 November 2020 15:13

To: [REDACTED]

<[REDACTED]>

Subject: Personal- correspondence from James Hamilton

Dear Kevin Pringle,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid restrictions do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

[REDACTED]

| Please contact me on Skype or on [REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code

c/o E: [REDACTED]

Kevin Pringle
Charlotte Street Partners
By email to:
[REDACTED]

—

25 November 2020

Dear Kevin Pringle,

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

As you may know, I have been appointed as the independent adviser to consider the First Minister's self-referral under the Ministerial Code. I attach a copy of the Parliamentary answer which sets out the remit for the referral.

My purpose in writing is to seek from you information to assist me in preparing my report.

[REDACTED]

I would be grateful if you could confirm if this information is correct, and provide any further information you may have about this conversation that would be relevant to my remit.

It would be helpful to have your response to this letter by 8 December. Please let me know if this deadline is likely to pose a difficulty for you or if you need any clarification about any aspect of my request.

Yours Sincerely

James Hamilton

Question S5W-31054: Clare Adamson, Motherwell and Wishaw, Scottish National Party, Date Lodged: 03/08/2020

To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

Answered by John Swinney (03/08/2020):

In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

The Scottish Government will provide secretariat support as required.

Current Status: Initiated by the Scottish Government. Answered by John Swinney on 03/08/2020

From: [REDACTED]
Sent: 25 November 2020 09:18
To: [REDACTED]@amadvocates.co.uk' [REDACTED]@amadvocates.co.uk>
Subject: Personal- Ministerial Code Referral- Correspondence from James Hamilton

Dear Duncan Hamilton,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid restrictions do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or on [REDACTED]

Question S5W-31054: Clare Adamson, Motherwell and Wishaw, Scottish National Party, Date Lodged: 03/08/2020

To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

Answered by John Swinney (03/08/2020):

In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
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- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

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The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

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The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
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3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
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 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

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Secretariat

The Scottish Government will provide secretariat support as required.

Current Status: Initiated by the Scottish Government. Answered by John Swinney on 03/08/2020

James Hamilton
Independent Adviser on the Scottish Ministerial Code

c/o [REDACTED]@gov.scot

Duncan Hamilton
AMA Advocates
By email to: [REDACTED]@amadvocates.co.uk

25 November 2020

Dear Duncan Hamilton,

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

As you may know, I have been appointed as the independent adviser to consider the First Minister's self-referral under the Ministerial Code. I attach a copy of the Parliamentary answer which sets out the remit for the referral.

My purpose in writing is to seek from you information to assist me in preparing my report.

Written submissions provided by other participants have indicated that you were present at and participated in a meeting between the First Minister and Alex Salmond, which was held at the First Ministers house on 2 April 2018. The submission also indicates that you participated in preliminary conversations concerning the purpose of the meeting and the arrangements to be made.

I would be grateful if you could provide a short written statement on this meeting including; what you understood the purpose of the meeting to be; any information you have on how and when the meeting was arranged; who participated and on what basis; and any further information you have that would be relevant to my remit.

It would be helpful to have your response to this letter by 8 December 2020. Please let me know if this deadline is likely to pose a difficulty for you or if you need any clarification about any aspect of my request.

Yours Sincerely

James Hamilton

From: [REDACTED]

Sent: 25 November 2020 09:18

To: Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>

Subject: Personal- Ministerial Code Referral- Correspondence from James Hamilton

Dear Stuart Nicolson,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid measures do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or on [REDACTED]

Question S5W-31054: Clare Adamson, Motherwell and Wishaw, Scottish National Party, Date Lodged: 03/08/2020

To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

Answered by John Swinney (03/08/2020):

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The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

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It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

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The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
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Timing

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Publication

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Secretariat

The Scottish Government will provide secretariat support as required.

Current Status: Initiated by the Scottish Government. Answered by John Swinney on 03/08/2020

James Hamilton
Independent Adviser on the Scottish Ministerial Code

c/o E: [REDACTED]

Stuart Nicolson
Special Advisor to the First Minister
By email to: stuart.nicolson@gov.scot

25 November 2020

Dear Stuart Nicolson,

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

As you will know, I have been appointed as the independent adviser to consider the First Minister's self-referral under the Ministerial Code. I attach a copy of the Parliamentary answer which sets out the remit for the referral.

My purpose in writing is to seek from you information to assist me in preparing my report.

Written submissions provided by other participants have indicated that Geoff Aberdeen contacted you on 14 January 2019, with a copy of a press statement he intended to issue. [REDACTED]

I would be grateful if you could confirm if this information is correct, and provide any further information you may have about this [REDACTED] that would be relevant to my remit.

It would be helpful to have your response to this letter by 8 December 2020. Please let me know if this deadline is likely to pose a difficulty for you or if you need any clarification about any aspect of my request.

Yours Sincerely

James Hamilton

Re: Personal- Ministerial Code Referral- Correspondence from James Hamilton

From: [REDACTED]
To: [REDACTED]@gov.scot>
Date: Wed, 25 Nov 2020 14:45:51 +0000

Dear [REDACTED]

Many thanks for this letter which I have considered carefully.

I regret that my professional duties and obligations do not permit me to assist in providing the information sought.

I trust that Mr Hamilton will understand that position.

Yours faithfully

Duncan Hamilton

Duncan Hamilton
Advocate

[REDACTED]

Arnot Manderson Advocates, Parliament House, Edinburgh, EH1 1RF t: [REDACTED]

www.amadvocates.co.uk



ARNOT MANDERSON
ADVOCATES

From: "[REDACTED]@gov.scot" <[REDACTED]@gov.scot>
Date: Wednesday, 25 November 2020 at 09:21
To: [REDACTED]
Subject: Personal- Ministerial Code Referral- Correspondence from James Hamilton

Dear Duncan Hamilton,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid restrictions do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

██████████ | Secretariat to the Independent Advisor under the Ministerial Code | Please
contact me on Skype or on ██████████

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

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This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

RE: Personal- Ministerial Code Referral- Correspondence from James Hamilton

From: Nicolson S (Stuart) Special Adviser <stuart.nicolson@gov.scot>
To: [REDACTED] @gov.scot>
Date: Wed, 25 Nov 2020 10:55:26 +0000

Dear [REDACTED]

Thank you for forwarding the attached.

I will reply to Mr Hamilton within the requested timeframe, and will be in touch with yourself should I require any further clarification.

Best regards,

Stuart

From: [REDACTED] @gov.scot>
Sent: 25 November 2020 09:21
To: Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: Personal- Ministerial Code Referral- Correspondence from James Hamilton

Dear Stuart Nicolson,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

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Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



FW: Personal- Ministerial Code Referral- Correspondence from James Hamilton

From: [REDACTED]
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Wed, 25 Nov 2020 14:59:39 +0000

Hi James,

Please see response from Duncan Hamilton. I will go back to him to acknowledge receipt.

Best wishes,

[REDACTED]

From: Duncan Hamilton <duncanhamilton@amadvocates.co.uk>
Sent: 25 November 2020 14:46
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Re: Personal- Ministerial Code Referral- Correspondence from James Hamilton

Dear [REDACTED]

Many thanks for this letter which I have considered carefully.

I regret that my professional duties and obligations do not permit me to assist in providing the information sought.

I trust that Mr Hamilton will understand that position.

Yours faithfully

Duncan Hamilton

Duncan Hamilton
Advocate

[REDACTED]
duncanhamilton@amadvocates.co.uk

Arnot Manderson Advocates, Parliament House, Edinburgh, EH1 1RF t: [REDACTED]
[REDACTED] www.amadvocates.co.uk



ARNOT MANDERSON
ADVOCATES

From: "[REDACTED] <[REDACTED]@gov.scot>" <[REDACTED]@gov.scot>
Date: Wednesday, 25 November 2020 at 09:21
To: DUNCAN HOME <duncanhamilton@amadvocates.co.uk>
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Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

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From: [REDACTED]
Sent: 25 November 2020 15:14
To: 'editor@thecourier.co.uk' <editor@thecourier.co.uk>
Subject: Personal- for the attention of David Clegg- correspondence from James Hamilton

Dear David Clegg,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid restrictions do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

[REDACTED]
| Please contact me on Skype or on [REDACTED]

James Hamilton
Independent Adviser on the Scottish Ministerial Code

c/o E: [REDACTED]

David Clegg
Editor, Dundee Courier
By email to: editor@thecourier.co.uk

25 November 2020

Dear David Clegg,

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

As you will know, I have been appointed as the independent adviser to consider the First Minister's self-referral under the Ministerial Code. I attach a copy of the Parliamentary answer which sets out the remit for the referral.

My purpose in writing is to seek from you information to assist me in preparing my report.

[REDACTED]

I would be grateful if you could confirm if this information is correct, and provide any further information you may have [REDACTED] that would be relevant to my remit.

It would be helpful to have your response to this letter by 8 December 2020. Please let me know if this deadline is likely to pose a difficulty for you or if you need any clarification about any aspect of my request.

Yours Sincerely

James Hamilton

Question S5W-31054: Clare Adamson, Motherwell and Wishaw, Scottish National Party, Date Lodged: 03/08/2020

To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

Answered by John Swinney (03/08/2020):

In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

The Scottish Government will provide secretariat support as required.

Current Status: Initiated by the Scottish Government. Answered by John Swinney on 03/08/2020

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[REDACTED]

A large black rectangular redaction box covers the majority of the page content, leaving only a narrow vertical strip on the left side visible. This strip contains a series of horizontal white lines of varying lengths, which appear to be remnants of text or a list that has been completely obscured by the redaction. The redaction is complete, with no legible text or other graphical elements visible within the main body of the page.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible][illegible]

[REDACTED]

[illegible]

A stylized graphic of a white staircase on a black background. The staircase is composed of several horizontal and vertical white lines, creating a sense of depth and movement. On the left side, there is a solid white vertical line. The overall composition is minimalist and modern.

[REDACTED]

[REDACTED]

[REDACTED]

[illegible][illegible]

[REDACTED]

[REDACTED]

- [illegible]

RE: Video Conference

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]>
Date: Tue, 26 Jan 2021 11:41:13 +0000

It was really just to check everything looks ok- e.g. the bit about sharing the transcript with the interviewee, and about destroying the video recording once the transcript had been prepared and agreed.

From: James Hamilton <[REDACTED]>
Sent: 26 January 2021 11:36
To: [REDACTED]@gov.scot>
Subject: Re: Video Conference

Sorry, [REDACTED] I am not sure what is at issue concerning the background for participants; I must have missed something.

James

On Tue, 26 Jan 2021 at 11:06, <[REDACTED]@gov.scot> wrote:

Hi James,

That's fine, completely understand. My main phone related tech fail at the moment is accidentally sending stickers on whatsapp- so if I ever send you a huge picture of a cartoon octopus it isn't intentional!

Did you have any comments on the background for participants? If not I can send to the Perm Sec's Office.

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]>
Sent: 26 January 2021 11:01
To: [REDACTED]@gov.scot>
Subject: Re: Video Conference

Hi [REDACTED]

My email last night- at 18.11- I have searched in vain; it is lost in my trail as well. I think what happened is that I pressed the send button by accident so there is no text. I find the way gmail shows on my phone utterly confusing and I find it much easier to follow the email trail on my Mac or the laptop.

James

On Tue, 26 Jan 2021 at 09:29, <[REDACTED]@gov.scot> wrote:

Hi James,

I will set something up early afternoon if that's ok? I think the sound issues are an issue with my laptop connecting with the service, and is just random and unpredictable. I want to try a couple of things around transferring the host role, and on recording, to check what the plan B would be.

Could you resend your email of 18:19 last night- the text seems to have got lost somewhere in the email trail.

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 26 January 2021 09:17
To: [REDACTED] <[REDACTED]@gov.scot>
Subject: Video Conference

Hi [REDACTED]

I assume we will need to try the video-conferencing out again some time today.

I am around all day except between 15.30 and 16.30.

Ciao

James

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RE: Personal- correspondence from James Hamilton

From: [REDACTED]@gov.scot>
To: Kevin Pringle <kevin.pringle@charlottestpartners.co.uk>
Date: Thu, 26 Nov 2020 12:11:02 +0000

Dear Kevin,

Many thanks for your response and for confirming that a hard copy of the letter will not be required.

Best wishes,

[REDACTED]

From: Kevin Pringle
Sent: 26 November 2020 10:17
To: [REDACTED]
Subject: Re: Personal- correspondence from James Hamilton

Dear [REDACTED]

Thanks for this. If it hasn't already gone, there's no need to send the hard copy as I'm not currently working in Edinburgh and it may be some time before someone is in the office and sends it on. I will certainly respond well before 8 December.

Regards
Kevin

From: "[REDACTED]@gov.scot" <[REDACTED]@gov.scot>
Date: Wednesday, 25 November 2020 15:14
To: Kevin Pringle <Kevin.Pringle@charlottestpartners.co.uk>
Subject: Personal- correspondence from James Hamilton

Dear Kevin Pringle,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid restrictions do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

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FW: Personal- correspondence from James Hamilton

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Thu, 26 Nov 2020 12:07:48 +0000

Hi James,

Please see initial response from Kevin Pringle.

Best wishes,

[REDACTED]

From: Kevin Pringle
Sent: 26 November 2020 10:17
To: [REDACTED]
Subject: Re: Personal- correspondence from James Hamilton

Dear [REDACTED]
Thanks for this. If it hasn't already gone, there's no need to send the hard copy as I'm not currently working in Edinburgh and it may be some time before someone is in the office and sends it on. I will certainly respond well before 8 December.
Regards
Kevin

From: "[REDACTED]@gov.scot" <[REDACTED]@gov.scot>
Date: Wednesday, 25 November 2020 15:14
To: Kevin Pringle [REDACTED]>
Subject: Personal- correspondence from James Hamilton

Dear Kevin Pringle,

Please see attached correspondence from James Hamilton, independent advisor on the Ministerial Code.

In order to ensure that the current Covid restrictions do not delay this correspondence, it has been sent by email in the first instance. A duplicate hard copy will also be sent by post.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

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Email to the Committee

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Wed, 27 Jan 2021 17:30:09 +0000
Attachments: Committee email January 2021.docx (13.82 kB)

Hi James,

Please see attached draft response to the Committee clerks. They are hoping for a response by Friday lunchtime if possible.

Best wishes,

[REDACTED]

Thank you for your email.

As you know, Mr Hamilton has sought written submissions from a range of participants.

Mr Hamilton is also currently undertaking video interviews with some participants where he has additional questions he wishes to ask them.

Mr Hamilton intends to complete his report as soon as possible, and is conscious that the Scottish Parliament election is scheduled to take place in early May 2021.

Mr Hamilton expects his report will be published, and will take necessary steps to ensure that his report is compliant with any relevant court orders.

RE: Introductory statement

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Wed, 27 Jan 2021 12:37:57 +0000
Attachments: Introductory remarks.docx (14.12 kB)

Hi James,

Apologies, I had adjusted in the notes to participants to reflect that the video recording would be destroyed once the transcript is agreed, but not in the intro remarks- I've adjusted in the attached.

Best wishes,

[REDACTED]

From: James Hamilton <[REDACTED]@[REDACTED]>
Sent: 27 January 2021 12:33
To: [REDACTED]@gov.scot>
Subject: Introductory statement

Hi [REDACTED]

I think you were going to do a small revision to the introductory statement- I will need it this afternoon.

James

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Introductory remarks

Thank you for agreeing to participate in this interview. As you know, I am conducting an investigation into the First Minister's self-referral under the Ministerial code concerning meetings between the First Minister and Alex Salmond in 2018.

Thank you for the written statement you have provided. I have used the information in this, and other statements I have received, to develop a list of further questions I would like to discuss with you.

■■■■■ ■■■■■, who provides secretariat support to the investigation, will also be present during the interview to take notes and to provide practical and technical support if required.

The meeting will also be recorded, so that a transcript of the conversation can be produced. This will be shared with you as a record of the discussion, and once the transcript is agreed the recording will be destroyed.

In producing my report, I may find that I need to refer to the information you provide. I will be taking appropriate action to ensure that my report is compliant with any relevant court order.

Do you have any questions about the process, or how the information you provide will be used?

In that case, let us turn to the main part of the discussion.

FW: Private - James Hamilton investigation under the Ministerial Code

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Wed, 27 Jan 2021 11:19:21 +0000

Hi James,

The committee clerks have been in touch about various issues to do with the timing of your report, and what point you have got to in your work. I will draft something up and send it over later today.

Best wishes,

[REDACTED]

From: [REDACTED]@parliament.scot>
Sent: 27 January 2021 10:32
To: [REDACTED]@gov.scot>
Subject: Private - James Hamilton investigation under the Ministerial Code
Sensitivity: Private

Dear [REDACTED]

I hope you are well.

I clerk the SGHHC Committee and the Committee discussed Mr Hamilton's deliberations on the First Minister's self-referral under the Ministerial Code yesterday. The Committee would like to know what the estimated date is for Mr Hamilton to reach a decision. If you are unable to provide a date, an accurate a timeframe for this decision and the associated publication of his report would be much appreciated. I am aware he received Mr Salmond's submission just before New Year and that he has sought and received statements for others. Will there be a stage where he interviews relevant people? I assume this will impact on the timing of his report. In addition, I assume his report will be published as is standard practice? I appreciate there will be substantiating evidence that may not be able to be published given the subject matter and relevant legal obligations that must be complied with.

An indication as to when the decision and associated report will be available would be very much appreciated as soon as you are able,

Kind regards

[REDACTED]

Clerk
SGHHC Committee

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Scotland

Pàrlamaid na h-Alba: A' toirt deagh bhuaidh air beatha sluagh na h-Alba

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From: [REDACTED]
Sent: 27 January 2021 15:58
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: Mr Hamilton Interview- follow up

Hi Andy,

As discussed, please see attached list of questions.

I should be able to provide a full list of actions once I have reviewed the recording, but here is a list of what I noted down.

- In the discussion, it was suggested that documentation previously sent to the Committee on the development of the procedure, and the Perm Sec's role in this, could be shared with Mr Hamilton. A letter from Jeremy Heywood to all Perm Sec's asking them to consider if their department's procedures needed updating in the light of the Me Too movement, was also mentioned. As ever, links to where material has been provided to the Committee and published by them are fine.
- It would also be helpful to share statistics on harassment complaints, against both Ministers and civil servants, preferably disaggregated by type of complaint (e.g. bullying, discrimination, sexual allegations etc).
- Timelines of events relating to the procedure and associated events were also mentioned as something that could be provided- this was in relation to the questions on when arbitration/mediation was discussed.
- Finally, the Perm Sec said she would consider the question on possible updates to the Ministerial Code and provide a written response.

Happy to discuss.

Best wishes,

[REDACTED]

Questions for Ms Leslie Evans, Permanent Secretary

What was your involvement in drawing up the new “Procedure” for dealing with harassment complaints against Ministers and former Ministers?

What was the intention behind the changes?

What prompted the changes? At whose initiative was the process of reviewing and changing the procedures in harassment complaints made? Was the review influenced in any way by any specific incidents? Were there perceived to be weaknesses in the former system? If so, what were these?

Who was involved in the review process? Were former Ministers consulted? If not, was any consideration given to consulting them?

How many harassment complaints have there been in recent years? It would be helpful if they could be broken down by date and type of activity complained of.

Can you confirm that prior to 5 June 2018 the First Minister had not made you aware of her communications with Mr Salmond?

When the First Minister informed you of the meetings on 5 June, did she offer any explanation to you concerning the question of whether there should have been a record of the meetings? If so, did you consider her explanation a reasonable one?

Did you express any view to her about whether it was proper for her to have met Mr Salmond or communicated with him? Did you or do you have any such view?

When the First Minister informed you in mid-July 2018 that at a meetings with Mr Salmond on 14 July 2018 he had sought a process of arbitration, was it explained to you in what sense he wanted arbitration? Was it over the substance of the complaints, or the process of resolving the complaints, or both?

Were there avenues open to the First Minister to take advice from members of the permanent civil service concerning the contacts with Mr

Salmond without the possibility that you would be made aware of the matter?

In your opinion are there changes to the Ministerial Code which should be considered in the light of what has occurred?

RE: Ministerial Code - First Minister's Self-Referral

From: Hynd JS (James) </o=tse/ou=tseexchsite01/cn=recipients/cn=hyndj">
To: Deputy First Minister and Cabinet Secretary for Education and Skills
<dfmcse@gov.scot>
Cc: Hogg KJ (Kenneth) <kenneth.hogg@gov.scot>, McAllister C (Colin)
<colin.mcallister@gov.scot>, DG Organisational Development & Operations
<dgodo@gov.scot>
Date: Mon, 27 Jul 2020 21:51:46 +0000
Attachments: Submission to DFM - Ministerial Code Referral -July 2020.docx (30.35 kB);
Submission to DFM - Ministerial Code Referral -July 2020 Annex C Draft Remit.docx
(21.1 kB)

top copy DFM PO

Further to my emails below, here is a further note and attachments for DFM's consideration.

James
James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh


From:  <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and
Cabinet Secretary for Education and Skills
Sent: 11 July 2020 08:59
To: Hynd JS (James) <James.Hynd@gov.scot>; Deputy First Minister and Cabinet Secretary for
Education and Skills <DFMCSE@gov.scot>
Cc: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>; McAllister C (Colin)
<Colin.McAllister@gov.scot>; DG Organisational Development & Operations
<DGODO@gov.scot>
Subject: RE: Ministerial Code - First Minister's Self-Referral

Morning James

DFM has noted and asked to be kept advised.

Many thanks




DPS to DFM

From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 10 July 2020 17:51
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>
Subject: RE: Ministerial Code - First Minister's Self-Referral

DFM

This is to record that earlier today I spoke to Mr Hamilton about the next steps in the self-referral process and whether the letter he has received from the Parliamentary Committee (link below) might have any implications from his perspective

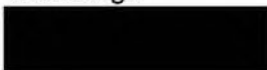
Mr Hamilton expressed significant misgivings about the approach being taken by the Committee. While he will give the matter further thought, his current sense is that the Committee's approach has the potential to duplicate what he would be seeking to do in the referral process. At this stage, he is not sure that it would be possible or desirable to have parallel processes in train.

He said that he would give the matter further consideration and revert to me next week.

<https://www.parliament.scot/HarassmentComplaintsCommittee/20200707LettertoJamesHamiltonwrittenevidence.pdf>

James

James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh



From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 08 July 2020 07:25
To: Hynd JS (James) <James.Hynd@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>
Subject: RE: Ministerial Code - First Minister's Self-Referral

Good morning James

DFM is content with the recommended approach and asks that these matters be taken forward. DFM is separately addressing the issues put to him by Lesley Fraser raised by the Committee Inquiry.

Many thanks

[REDACTED]

[REDACTED] [REDACTED]
DPS to DFM

[REDACTED]

From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 07 July 2020 23:50
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>
Subject: Ministerial Code - First Minister's Self-Referral

Top copy DFM

3 page minute and 2 page annex.

James

James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh
[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 05 June 2020 14:06
To: Hynd JS (James) <James.Hynd@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: RE: OFF-SEN: FFM complaints-related workstreams

Hi James

The DFM has noted.

Thanks

[REDACTED]

[REDACTED] [REDACTED]
DPS to DFM

[REDACTED]

From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 03 June 2020 18:21
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot> [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>;
[REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; McAllister C (Colin)
<Colin.McAllister@gov.scot>; Nicolson S (Stuart) Special Adviser <Stuart.Nicolson@gov.scot>
Subject: RE: OFF-SEN: FFM complaints-related workstreams

DFM

I have this afternoon spoken to James Hamilton about the Ministerial Code referral. He remains available to undertake this work.

I agreed with him the following steps:

1. I would contact Dame Elish to advise her that the referral is getting underway and to establish a) whether she is now free from the previous conflict of interest; and b) if she is free, whether she would be available to undertake the referral jointly with Mr Hamilton.
2. I would send him (and Dame Elish if she has a role) the previous remit and background material. He may wish to offer thoughts on this.
3. He and I (and Dame Elish if involved) would then discuss how the conduct of the referral might proceed in light of the current lockdown limitations, noting that it is very likely that key figures whom he might wish to interview will have very restricted availability for some time to come. (As you know, Mr Hamilton [REDACTED] where they are experiencing more or less the same restrictions as we have here.)
4. When the remit and methods of working have been settled, we would provide secretarial support to assist with the location of documents and the setting up of interviews.

I will keep you advised of progress.

James

James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh
[REDACTED]

From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> On Behalf Of Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 03 June 2020 10:13
To: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Macniven R (Ruairidh) <Ruairidh.Macniven@gov.scot>; Director Communications, Ministerial

Support & Facilities <DirectorCMSF@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; DG Education, Communities & Justice <DGE CJ@gov.scot>; Richards N (Nicola) <Nicola.Richards@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; Fowler K (Kenneth) <Kenneth.Fowler@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Troup C (Colin) (Dr) <Colin.Troup@gov.scot>; Legal Secretariat to the Lord Advocate <DLPCEALSLA@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: OFF-SEN: FFM complaints-related workstreams

Hi Kenneth,

The DFM is grateful for this submission and notes its contents.

He would be grateful if steps could now be taken to commence the internal review in the Scottish Government on the remit he previously agreed.

The DFM would also be grateful if steps were taken by the independent reviewer to proceed with the self-referral inquiry by the First Minister under the Ministerial Code.

Mr Swinney would like to stress that these steps must be taken cognisant of the fact that the First Minister, Ministers and senior officials relevant to these inquiries are entirely focused - and will continue to be so for some time to come - on dealing with the COVID pandemic. That task will naturally limit the amount of time that can be allocated to these tasks.

Many thanks

[REDACTED]
[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: [REDACTED] Email: DFMCSE@gov.scot

All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: Hogg KJ (Kenneth) <Kenneth.Hogg@gov.scot>
Sent: 27 May 2020 14:11
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Macniven R (Ruairidh) <Ruairidh.Macniven@gov.scot>; Director Communications, Ministerial Support & Facilities <DirectorCMSF@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; DG Organisational Development & Operations <DGODO@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; DG Education, Communities & Justice <DGE CJ@gov.scot>; Richards N (Nicola) <Nicola.Richards@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; Fowler K (Kenneth) <Kenneth.Fowler@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Troup C (Colin) (Dr) <Colin.Troup@gov.scot>; Legal Secretariat to the Lord Advocate <DLPCEALSLA@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: OFF-SEN: FFM complaints-related workstreams

I attach a submission for DFM, plus 3 other supporting documents.

Kenneth

Kenneth Hogg
Director, Organisational Continuity



From: James Hynd
Cabinet Secretariat
27 July 2020

Deputy First Minister

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL

Purpose

1. To provide advice on the next steps in the handling of the Ministerial Code inquiry.

Timing

2. **Immediate.**

Background

3. As you know, James Hamilton, the Independent Adviser on the Ministerial Code, has been considering the implications for taking forward the Ministerial Code referral in light of the intention of the Committee on the SG's Handling of Harassment Complaints to enquire into the same subject matter. Mr Hamilton has now concluded that he feels able to proceed with the referral at the present time, notwithstanding the Committee's intention to issue its own report. I attach his email to me in full at Annex A.

4. As you will see from his email, Mr Hamilton is now keen to finalise the remit and other administrative matters relating to the referral. This will allow a response to be issued to the committee to the letter it sent to Mr Hamilton (main text of letter at Annex B). We are separately picking up the other points that Mr Hamilton raises in his email.

Remit for Self-Referral

5. Before the decision was taken in January 2019 to suspend the referral in order to avoid the risk of causing prejudice to the criminal proceedings, a draft of the remit had been shared with Mr Hamilton. This is set out at Annex C. Mr Hamilton has now expressed himself content with the remit as drafted. The remit will need some updating to reflect developments since it was drafted and these are marked up in Annex C.

6. The remit was drafted to reflect the questions that had arisen over the First Minister's contact with Mr Salmond in 2018. The dates of those contacts are set out in the remit. As you will have seen, questions have now been raised about a meeting that it is suggested took place on 29 March 2018 involving the First Minister and Geoff Aberdeen, the former Chief of Staff to Mr Salmond. The question we need to consider is whether this meeting should be added to the remit for the referral. I would welcome your thoughts on this.

Communications

7. We are committed to publishing the final remit when it is agreed. I suggest we do so via a GIQ, and that you write to the Parliamentary Committee as a courtesy to advise them that the remit is being put into the public domain.

Conclusion

8. You are invited to:

- 8.1 Note that Mr Hamilton wishes to proceed now with the referral process:
- 8.2 Consider if the 29 March 2018 meeting should form part of the remit;
- 8.3 Notwithstanding the decision on paragraph 7.2, confirm if you are content with remit (with necessary updating as shown at Annex C).
- 8.4 Agree that the final remit is published by way of a GIQ, with the Committee being advised by way a letter from you.

James Hynd
Cabinet Secretariat
27 July 2020

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness

Lesley Fraser
Kenneth Hogg
Colin McAllister

Email from Mr Hamilton

Dear Mr Hynd

Since we last spoke I have given some thought to how to proceed. I have come to the conclusion that the best course of action is to press ahead now with the task I have accepted notwithstanding the parliamentary committee's intention to issue its own report. It is quite true that the scope of the parliamentary inquiry is broad and expressly includes the matter which I have been asked to report on under the referral procedure provided for in the Ministerial Code. However, the referral procedure is intended to produce an independent expert assessment whereas the parliamentary inquiry is likely to produce a more political result. Having undertaken the task I would be loath to walk away from it notwithstanding the obvious difficulties.

At this stage, therefore, it is necessary to settle the terms of the remit. I was content with the draft provided in your letter and email of 30 January and I suggest that it be formally adopted by the First Minister.

It will be necessary to appoint somebody to act as secretary/ administrator /organiser to the referral procedure. This will need to be done as soon as possible as I would wish to respond to the request from the Parliament preferably before their proposed deadline of 4 August which is now just over a week away. At the very least the letter needs to be acknowledged before that date.

I would like to see some of the recent opinions given under the referral procedure to get some sense of the "house style". Are they available on a website? I assume Ms Fabiani has correctly stated the position that it has been the practice to annex evidence given to previous referrals to the independent panellist's report when issued. If so I would propose if possible to follow this practice and would now so inform the parliamentary committee. I would also propose to point out to the committee that I do not have any evidence at present concerning the matters they are asked to inquire into and will not have any such evidence other than what will be made publicly available in my report. I will suggest that in these circumstances it will not be appropriate that I should be asked to give evidence before the committee. I think this reply should be issued through the secretary to the referral as I do not think I should respond directly to the parliamentary committee using my personal email.

Finally, having had the opportunity to discuss the procedures adopted in previous referrals with Dame Elish Angiolini she has informed me that it has been a usual practice to appoint a local legal practitioner to assist the independent panel member. I would be very content to follow this practice. It is always very helpful to have somebody to discuss problems and ideas with and to assist with drafting, particularly in my situation as an outsider which while it confers the advantage of independence has the drawback that one unfamiliar with the local procedures and culture may miss important nuances.

Yours sincerely

James Hamilton

Annex B

Committee on the Scottish Government Handling of Harassment
Complaints

c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

James Hamilton
Independent Panel Member

BY EMAIL SGHHC@parliament.scot

7 July 2020

Dear Mr Hamilton

I am writing to you in my capacity as Convener of the Scottish Parliament's Committee on Scottish Government Handling of Harassment Complaints. As you will be aware, the Committee was established with the following remit: "To consider and report on the actions of the First Minister, Scottish Government officials and special advisers in dealing with complaints about Alex Salmond, former First Minister, considered under the Scottish Government's "Handling of harassment complaints involving current or former ministers" and procedure and actions in relation to the Scottish Ministerial Code.

The Committee is seeking information from you at this stage in your capacity as the member of the independent panel who is considering the First Minister's self-referral under the Ministerial Code. I should say at the outset that the Committee appreciates that your process is entirely separate from the Committee's inquiry. However the Committee wants to ensure evidence that you gather, and your findings, can be made available to the Committee to inform its scrutiny.

The Committee wishes to consider the terms of the self-referral. Media coverage at the time suggested that a remit for your work would be published following the self-referral. I appreciate you halted your deliberations while court proceedings progressed, but I would welcome confirmation that you intend to publish such a remit soon.

As you will be aware, the Committee is including in its inquiry a focus on matters similar to those you have been invited to deliberate upon. On that basis, the Committee would ask that you inform the Committee of the likely timescales for

concluding your deliberations. The Committee is working on the assumption that your work will conclude at some point during its inquiry. There is no issue with a parliamentary inquiry and consideration of the self-referral progressing concurrently.

The Committee appreciates that previous reports from the independent panel have been published in full, with evidence that has been gathered annexed to the report. The Committee asks that you confirm, at this stage, the forms of evidence you intend to make public. The Committee considers, in the interests of transparency and to enable it to undertake informed scrutiny, the evidence that you base your findings upon should be placed in the public domain as far as is possible.

The Committee intends to commence evidence taking in mid-August so a response from you on these matters is requested by 4 August. The Clerks will inform you at the earliest opportunity whether you will be called to give oral evidence.

Please note that the Committee has agreed that it will administer an oath/solemn affirmation for witnesses as a matter of course but that it will review this position in the case of any vulnerable witnesses.

Should you have any questions about this request or the handling of your response, please do not hesitate to contact the Clerks to the Committee.

Yours sincerely

Linda Fabiani MSP
Convener, Committee on the Scottish Government Handling of
Harassment Complaints

DRAFT**Ministerial Code: Remit for Independent Adviser**Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit and appointment letter will be published.

The final report will be published. If required in order to avoid any risk of impacting on, or prejudicing, the police investigations or any criminal proceedings, a report may be published with any redactions thought necessary by the Independent Advisers. If redactions are required for legal reasons, a full, un-redacted version of the report will be published following the conclusion of any criminal proceedings, including any appeal, reflecting any legal reporting restrictions that are applied.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

The Scottish Government will provide secretariat support as required.

Scottish Government
January 2019

Offer of Help

From: [REDACTED]@gov.scot>
To: [REDACTED]@gov.scot>
Cc: [REDACTED]@gov.scot>
Date: Thu, 27 Aug 2020 12:50:35 +0000

Hi [REDACTED]

Just had a chat with James and understand you are heading up the work on the Ministerial Code referral. Happy to help out when needed. I understand there may be some costs associated with this and James agreed we are used to use our cost centre. Probably best also to get invoices sent direct to yourself or me for payment and then I can raise the PO and submit a copy of the invoice to AP+Vendor Maintenance for payment. Also happy to help you with any other tasks you may struggle to find time.

We will keep a separate breakdown in our BCLO area of what costs James Hamilton invoices us with so that we can have it to hand if ever asked for it.

Have copied in [REDACTED] as we share the BCLO role in our Division.

Many thanks, [REDACTED]

[REDACTED] | Scottish Government | Cabinet, Parliament and Governance Division |
[REDACTED] | email: [REDACTED]@gov.scot

RE: First Minister's self-referral

From: Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>
To: Hynd JS (James) <james.hynd@gov.scot>, Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>, Johnston P (Paul) <paul.johnston@gov.scot>, Fraser L (Lesley) <lesley.fraser@gov.scot>
Cc: McAllister C (Colin) <colin.mcallister@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>
Date: Tue, 27 Oct 2020 22:20:12 +0000

James,

~

Thank you for your help it is much appreciated.

~

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From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 27 October 2020 22:19
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Subject: RE: First Minister's self-referral

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Here is the text of the GIQ answer that set out the remit, dated 3 August.

~

I am copying in [REDACTED] [REDACTED] who now heads up the secretariat for the referral.

~

James

~

James Hynd

Head of Cabinet, Parliament and Governance Division

Room 4N:03

St Andrew's House

Edinburgh

Internal [REDACTED]
 [REDACTED]

~

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From: [REDACTED] <[REDACTED]@gov.scot> On Behalf Of Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 27 October 2020 22:08
To: Johnston P (Paul) <Paul.Johnston@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: First Minister's self-referral

\~

Evening,

\~

Apologies for the late hour of this email.

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The DFM has asked for a copy of the finalised remit for James Hamilton.

\~

He asked for this information tonight.

\~

Thanks

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██████████
██████████ | Interim Private Secretary to John Swinney MSP, Deputy First Minister and
Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel:
██████████ | Mob: ██████████ | Email: DFMCSE@gov.scot

\~

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RE: First Minister's self-referral

From: Hynd JS (James) <james.hynd@gov.scot>
To: Deputy First Minister and Cabinet Secretary for Education and Skills
 <dfmcse@gov.scot>, Johnston P (Paul) <paul.johnston@gov.scot>, Fraser L
 (Lesley) <lesley.fraser@gov.scot>
Cc: McAllister C (Colin) <colin.mcallister@gov.scot>, [REDACTED]
 <[REDACTED]@gov.scot>, Rogers D (David) (Constitution and Cabinet Director)
 <david.rogers@gov.scot>
Date: Tue, 27 Oct 2020 22:18:36 +0000
Attachments: s5w-31054.docx (20.05 kB)

[REDACTED]
 \~
 Here is the text of the GIQ answer that set out the remit, dated 3 August.

\~
 I am copying in [REDACTED] [REDACTED] who now heads up the secretariat for the
 referral.

\~
 James
 James Hynd
 Head of Cabinet, Parliament and Governance Division
 Room 4N:03
 St Andrew's House
 Edinburgh
 Internal ext [REDACTED]
 [REDACTED]

\~
 \~
 \~

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and
 Cabinet Secretary for Education and Skills
Sent: 27 October 2020 22:08
To: Johnston P (Paul) <Paul.Johnston@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>;
 Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>;
 McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: First Minister's self-referral

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 \~
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\~
 Thanks

\~
 [REDACTED]
 [REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and
 Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel:
 [REDACTED] | Email: DFMCSE@gov.scot

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SCOTTISH PARLIAMENT

WRITTEN ANSWER

3 August 2020

Index Heading: Constitution and External Affairs

Clare Adamson (Motherwell and Wishaw) (Scottish National Party): To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

S5W-31054

John Swinney: In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
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It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

The Scottish Government will provide secretariat support as required.

From: [REDACTED]
Sent: 27 October 2020 16:54
To: 'Douglas Ross' <douglas.ross@advocates.org.uk>
Subject: RE: James Hamilton- Ministerial code referral

Dear Douglas,

Many thanks, and apologies for not supplying this with the original material. [REDACTED]
[REDACTED]
[REDACTED]

Happy to discuss.

Best wishes,
[REDACTED]

From: Douglas Ross <douglas.ross@advocates.org.uk>
Sent: 27 October 2020 15:16
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: RE: James Hamilton- Ministerial code referral

Dear [REDACTED]

I am starting to look at this now. [REDACTED]
[REDACTED] If you were able
to forward this, I'd be grateful.

Many thanks

Douglas

From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Sent: 22 October 2020 10:23
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: RE: James Hamilton- Ministerial code referral

Dear Douglas,

Many thanks for confirming. If you were able to get comments back to us next week that would be great.

If you have any questions please feel free to get in touch, either by email or by phone.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

[REDACTED] Douglas Ross <douglas.ross@advocates.org.uk>

Sent: 21 October 2020 12:43

To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>

Subject: FW: James Hamilton- Ministerial code referral

Dear [REDACTED]

I'm sending this e-mail to confirm that your query (below) has been forwarded to me and that I will respond to it as promptly as possible. On account of an impending deadline in another pressing matter, that will likely be next week. Hopefully that will not be a problem, but do let me know if it is.

I'd be happy to discuss any matters arising by phone on the number below.

Regards

Douglas

Douglas Ross QC Ampersand Advocates

phone: [REDACTED]

web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)

Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)





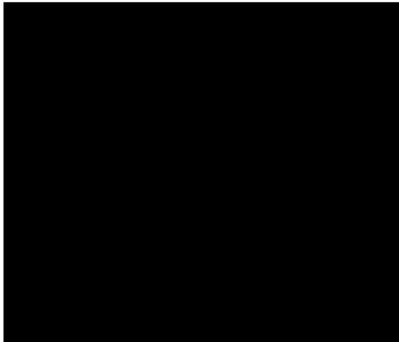
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From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 27 October 2020 22:19
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Subject: RE: First Minister's self- referral

[REDACTED]

Here is the text of the GIQ answer that set out the remit, dated 3 August.

I am copying in [REDACTED] who now heads up the secretariat for the referral.

James

James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh
[REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 27 October 2020 22:08
To: Johnston P (Paul) <Paul.Johnston@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: First Minister's self- referral

Evening,

Apologies for the late hour of this email.

The DFM has asked for a copy of the finalised remit for James Hamilton.

He asked for this information tonight.

Thanks

[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government |

Web: www.gov.scot [REDACTED] | Email: DFMCSE@gov.scot

All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

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SCOTTISH PARLIAMENT
WRITTEN ANSWER

3 August 2020

Index Heading: Constitution and External Affairs

Clare Adamson (Motherwell and Wishaw) (Scottish National Party): To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

S5W-31054

John Swinney: In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

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The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

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Secretariat

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From: [REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 27 October 2020 22:20
To: Hynd JS (James) <James.Hynd@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Subject: RE: First Minister's self- referral

James,

Thank you for your help it is much appreciated.

[REDACTED]

From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 27 October 2020 22:19
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
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James Hynd
Head of Cabinet, Parliament and Governance Division
Room 4N:03
St Andrew's House
Edinburgh
[REDACTED]

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Sent: 27 October 2020 22:08
To: Johnston P (Paul) <Paul.Johnston@gov.scot>; Hynd JS (James)

<James.Hynd@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills
<DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: First Minister's self- referral

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[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government |
Web: www.gov.scot | Tel: [REDACTED] | Email: DFMCSE@gov.scot

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